

Cache County School District

Policy Series 4000: Curriculum, Instruction, Assessment

Policy No. 4400

Recognizing Constitutional Freedoms in the Public Schools

The Cache County Board of Education recognizes that the primary responsibility for the education of children resides with their parents and the role of state and local governments is to support and assist parents in fulfilling that responsibility. The Utah Legislature has adopted three statutes specific to addressing this issue: *"Maintaining constitutional freedom in the public schools,"* *"Expressions of belief – Discretionary time,"* and *"Waivers of participation."* These statutes seek to clarify, within appropriate state and federal constitutional constraints, choices available to parents, students, employees and educators regarding religion, speech, and freedom of conscience in the public schools. Additionally, Utah's statute addressing *"Civic and character education"* clarifies core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based. Each of these statutes is addressed in this policy.

Civic and Character Education

- A. As per Utah code, public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions. Civic and character education are fundamental elements of the responsibility of public education and shall be a continuing emphasis and focus in public schools. The cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state. In addition, the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.
- B. Students shall be taught in connection with regular school work:
 - 1. honesty, integrity, morality, civility, duty, honor, service, and obedience to law;
 - 2. respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;
 - 3. Utah history, including territorial and preterritorial development to the present;
 - 4. the essentials and benefits of the free enterprise system;
 - 5. respect for parents, home, and family;
 - 6. the dignity and necessity of honest labor;
 - 7. skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.
- C. The Cache County School District may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively

Cache County School District

Policy Series 4000: Curriculum, Instruction, Assessment

emphasize civic and character education in the course of regular instruction in the public schools. Civic and character education in public schools are not intended to be separate programs in need of special funding or added specialists to be accomplished.

Curricular Displays and Instructional Spaces

- A. Because of the special characteristics of the classroom environment, which includes the age of K–12 students and compulsory education attendance requirements, public school officials and employees may not use their positions to advocate, endorse, promote, or disparage particular religious, political, or social viewpoint.
- B. Any instructional activity, performance or display which includes examination of or presentations about religion, political or religious thought or expression, or the influence thereof on music, art, religion, literature, law, politics, history or any other element of the curriculum, including the comparative study of religions, which is designed to achieve secular educational objectives included within the context of a course or activity and conducted in accordance with applicable rules or policies of the Utah State Board of Education and Cache County Board of Education, may be undertaken in the public schools.
- C. No aspect of cultural heritage, political theory, moral theory, or societal value shall be either included within or excluded from school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.
- D. Public schools may not sponsor prayer or religious devotionals.
- E. The District may enact guidelines restricting a teacher's right to display symbols, signs, and other materials in addition to the following:
 - 1. Instructional spaces are not generally considered public forums for personal teacher or student expressions in support of political, religious, or social viewpoints. Instructional spaces include but are not limited to the classroom door, wall displays, digital displays, bulletin boards, whiteboards etc. Rather, these spaces should generally reflect materials that support the curricular objectives or relevant references to instruction.
 - 2. Employees may display personal items in non-instructional spaces that are generally regarded as being provided for personal use, such as a teacher's desk. Any personal items displayed which may be regarded as promoting or endorsing personal viewpoints should generally not be visible to students during instruction and must not disrupt from instructional purposes.

Student Expressions of Belief During Discretionary Time

- A. Student expressions are allowed in a school as free speech under the First Amendment if they are not materially and substantially interfering with the requirements of

Cache County School District

Policy Series 4000: Curriculum, Instruction, Assessment

appropriate discipline in the operation of the school and without colliding with the rights of others.

- B. Expression of personal beliefs by a student participating in school-directed curricula or activities may not be prohibited or penalized unless the expression unreasonably interferes with order or discipline, threatens the well being of persons or property, or violates concepts of civility or propriety appropriate to the school setting.
- C. School administrators may regulate student expressions for legitimate educational purposes. Free expression of voluntary religious practice or freedom of speech by students during discretionary time, (non-instructional time during which a student is free to pursue personal interests), shall not be denied unless the expression has caused, or is reasonably likely to cause, a substantial disruption. An expression may cause a substantial disruption if the expression:
 - 1. unreasonably interferes with the ability of school officials to maintain order and discipline;
 - 2. unreasonably endangers persons or property;
 - 3. violates concepts of civility or propriety appropriate to the school setting;
 - 4. is vulgar, offensive, lewd and indecent;
 - 5. promotes illegal activities
- D. School administrators must address these incidents on a case-by-case basis to determine whether the student expression constitutes protected speech or whether it constitutes a substantial disruption. Before prohibiting a particular expression, school administrators must demonstrate facts that might reasonably lead them to forecast substantial disruption of or material interference with school activities.
- E. Any limitation under this policy, which addresses Utah Code Sections 53G-10-203 and 53G-10-205 on student expression, practice, or conduct shall be by the least restrictive means necessary to satisfy the school's interests in fulfilling curriculum objectives or to satisfy another specifically identified compelling governmental interest.

Study of Controversial Topics

- A. For the purposes of this policy, a controversial issue is herein defined as any issue which has generated sufficient interest and discussion to have provoked dissent and opposing points of view. The Board recognizes that controversial issues may arise within courses and subjects approved and required by state law and approved District curriculum.
- B. No part of this rule shall be construed to:
 - 1. prohibit or ban discussions of events, ideas, attitudes, beliefs, or concepts, including those described in this rule, from the general sharing and participation in the marketplace of ideas fostered in a learning environment; or
 - 2. promote one ideology over another regarding a topic, including those described in this rule. The Board recommends and urges that school administrators and teaching personnel always exert their most conscientious effort to present such facts objectively and impartially. The Board further feels that it has an obligation

Cache County School District

Policy Series 4000: Curriculum, Instruction, Assessment

to protect and defend its administrators and teachers against unjust reprisals for acting in the spirit of this policy.

C. The following considerations should be made when implementing or dealing with required instructional topics that may be considered controversial:

1. School personnel and parents share the responsibility for identifying and responding to controversial issues. School personnel shall develop procedures to:
 - a. engage in transparency about the topics/content that will be taught;
 - i. notify parents, in a timely manner, of anticipated curricula, materials, learning activities and instructional strategies which could reasonably be considered controversial; and,
 - ii. provide opportunities for parents to request and receive additional information as is reasonably necessary to comprehend the curriculum, learning materials, learning activities, and/or instructional strategies;
 - b. ensure content is age-appropriate;
 - c. preview all materials before use with students;
 - d. remain unbiased in the classroom.
2. Surveys designed to determine student perceptions of themselves as learners must:
 - a. be age-appropriate, relevant to the curriculum being taught, and have a clear educational purpose;
 - b. be administered only as set forth by state law if it is intended to reveal information about topics requiring prior written parental consent, including:
 1. political affiliations or political philosophies
 2. mental or psychological problems;
 3. sexual behavior, orientation, or attitudes;
 4. illegal, anti-social, self-incriminating, or demeaning behavior;
 5. critical appraisals of individuals with whom the student or family member has close family relationships;
 6. religious affiliations or beliefs;
 7. legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
 8. income, except as required by law.

Waivers of Participation

- A. If a parent of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent or the secondary student may request:

Cache County School District

Policy Series 4000: Curriculum, Instruction, Assessment

1. a waiver of the requirement to participate; or
 2. a reasonable alternative that requires reasonably equivalent performance by the student of the secular objectives of the curriculum or activity in question.
- B. The school shall promptly notify a student's parent if the secondary student makes a request.
- C. If a parent waiver of participation request is made the school shall:
1. waive the participation requirement; or
 2. provide a reasonable alternative to the requirement; or
 3. notify the requesting party that participation is required. If participation is required, the school shall ensure that any limitation under this section on student expression, practice, or conduct shall be by the least restrictive means necessary to satisfy the school's interests in fulfilling curriculum objectives or to satisfy another specifically identified compelling governmental interest.
- D. A student's academic or citizenship performance may not be penalized if the secondary student or the student's parent chooses to exercise a religious right or right of conscience in accordance with the provisions of this section.

Legal References:

Utah Code Ann. § 53G-10-202
Utah Code Ann. § 53G-10-203
Utah Code Ann. § 53G-10-204
Utah Code Ann. § 53G-10-205
Utah Code Ann. § 53E-9-203.
USBE Administrative Rule R277-328-5
Utah Laws Recognizing Constitutional Freedoms in the Schools

Synopsis:

Approved by the Board of Education: Adopted October 6, 2022. Prior Revised Dates This policy replaces the Religious Neutrality policy and the Controversial Classroom Discussions policy.