

MEMORANDUM

TO: District Superintendents

FROM: Todd K. Atwater
Deputy Superintendent, General Counsel

DATE: February 24, 2026

RE: Federal Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools

I. PURPOSE AND AUTHORITY

On Friday, February 5, 2026, the United States Department of Education issued updated guidance on Constitutionally Protected Prayer and Religious Expression. This memorandum serves as a summary of the updated guidance, and a reminder regarding mandatory compliance with the directive. Compliance with the U.S. Department of Education’s Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools (the “Federal Guidance”) is mandatory for all South Carolina School Districts.

Pursuant to Section 8524 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, Districts receiving federal education funds must not maintain or enforce any policy or practice that prevents, restricts, or otherwise denies participation in constitutionally protected prayer or religious expression in public elementary or secondary schools. Compliance with this requirement is a condition of continued eligibility for ESEA funds.

II. REQUIRED CERTIFICATION

Each District shall certify in writing to the South Carolina Department of Education (“SCDE”), no later than October 1 of each year, that:

The District has no policy or practice that prevents or denies participation in constitutionally protected prayer or religious expression in public schools; and

The District's policies and practices are consistent with the Federal Guidance.

Upon receipt of certifications from all of South Carolina's Districts, the SCDE certifies to the U.S. Department of Education that all local education agencies (LEAs) in the State that receive funds under ESEA are in compliance with Section 8524.

The South Carolina Department of Education will issue a reminder and a certification process later in the calendar year.

III. FOUNDATIONAL REQUIREMENTS

All Districts must ensure that its policies and practices adhere to the following requirements:

A. Student Religious Expression

Districts shall permit students to engage in constitutionally protected religious expression, including prayer, on the same terms as comparable secular expression, provided such expression does not materially disrupt instruction or infringe on the rights of others.

Districts shall not:

- Prohibit private or voluntary student prayer during the school day;
- Restrict students' ability to dress according to their religious faith;
- Treat religious speech as less permissible than secular speech; or
- Coerce or pressure any student to affirm or reject religious beliefs.

B. Student Groups

Districts must recognize and support religious student groups on the same basis as non-religious student groups, without discrimination based on religious viewpoint.

C. School Events

Districts shall not sponsor, organize, or compel prayer at school-sponsored events. However, Districts must permit students and employees to engage in individual, voluntary prayer at such events where participation is not coerced and the prayer is not attributable to the school as an institution.

D. Curriculum and Assignments

Districts must ensure that:

- Teachers do not require prayer or religious affirmation as part of instruction; and
- Students are permitted to express religious viewpoints in coursework, presentations, or assignments, which must be evaluated using neutral academic criteria, and neither penalized nor rewarded on account of its religious perspective.

E. Employees

Districts shall permit school employees to engage in personal religious expression, including prayer, on the same terms as other personal expression, provided such conduct does not coerce students or constitute official school speech. Teachers and other school officials and employees may also dress in accordance with their religious faith.

F. Discipline and Harassment

Districts must distinguish between protected religious expression and conduct constituting targeted harassment, threats, or unlawful advocacy. Protected religious speech shall not be disciplined solely because it is religious in nature.

IV. ENFORCEMENT AND REPORTING

SCDE will monitor Districts' compliance with these requirements. Districts found to be out of compliance may be subject to corrective action, including:

- Mandatory policy revisions;
- Compliance monitoring;
- Referral to the U.S. Department of Education for further enforcement; and
- Potential consequences affecting federal funding eligibility.

V. CONCLUSION

Each District is responsible for ensuring that its policies, practices, and training fully align with the requirements set forth in this memorandum and the Federal Guidance. Failure to comply may result in corrective action by the SCDE and referral to the U.S. Department of Education for enforcement, including actions affecting eligibility for federal education funds. The SCDE expects full and faithful compliance to ensure that the constitutional rights of students and school employees are fully protected.