

Students

Student Use of Buildings - Equal Access ¹

[For high school and unit districts]

Student groups or clubs that are not school sponsored are granted free use of school premises for a meeting or series of meetings under the following conditions: ²

1. The meeting is held during those non-instructional times identified by the Superintendent or designee for noncurricular student groups, clubs, or organizations to meet. *Non-instructional time* means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends. *Non-curricular student groups* are those student groups, clubs, or organizations that do not directly relate to the curriculum. ³
2. All non-curriculum related student groups that are not District sponsored receive substantially the same treatment. ⁴
3. The meeting is student-initiated, meaning that the request is made by a student.
4. Attendance at the meeting is voluntary.
5. The school will not sponsor the meeting.
6. School employees are present at religious meetings only in a non-participatory capacity.
7. The meeting and/or any activities during the meeting do not materially or substantially interfere with the orderly conduct of educational activities.
8. Non-school persons do not direct, conduct, control, or regularly attend the meetings.
9. The school retains its authority to maintain order and discipline. ⁵
10. A school staff member or other responsible adult is present in a supervisory capacity.
11. The Superintendent or designee approves the meeting or series of meetings.

The Superintendent or designee shall develop administrative procedures to implement this policy.

¹ All of the listed conditions are from the EAA, except for 10 and 11.

² 20 U.S.C. §4072.

³ The Ninth Circuit Court of Appeals found that a school district violated the EAA and the student's First Amendment rights by denying her Bible club the same rights and benefits as other student clubs. *Prince v. Jacoby*, 303 F.3d 1074 (9th Cir. 2002). Nothing in the decision suggests that the school was required to *sponsor* the Bible club and financially support it. However, the school board voluntarily gave "associated student body" clubs certain benefits that were denied the plaintiff's religious club. Thus, the district unlawfully treated one non-curriculum related student club differently from another non-curriculum related student club.

⁴ In response to a school's invitation for all student groups to paint murals in the school hallway, a Bible club sought to include a large cross. The school principal forbade the cross in order to avoid conflicts among students – there was evidence the student body contained Satanic and neo-Nazi adherents. The principal's decision was insulated from liability under the EAA by the Act's provision that "nothing in [the Act] shall be construed to limit the authority of the school ... to maintain order and discipline on school premises." *Gernetzke v. Kenosha Unified Sch. Dist. No. 1*, 274 F.3d 464 (7th Cir. 2001), *cert. denied*, 535 U.S. 1017 (2002).

LEGAL REF.: 20 U.S.C. §4071 et seq., Equal Access Act.
Bd. of Ed. of Westside Community Sch. Dist. v. Mergens, 496 U.S. 226 (1990).
Gernetzke v. Kenosha Unified Sch. Dist. No. 1, 274 F.3d 464 (7th Cir. 2001), *cert.*
denied, 535 U.S. 1017.

CROSS REF.: 7:10 (Equal Education Opportunities), 8:20 (Community Use of School Facilities)