

ASSEMBLY BILL

No. 974

Introduced by Assembly Member Audra Strickland

February 26, 2009

An act to add Sections 48950.1 and 48950.2 to the Education Code, relating to pupil rights, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 974, as introduced, Audra Strickland. Pupil rights: religious expression.

Existing law prohibits school districts operating one or more high schools and private secondary schools from making or enforcing a rule subjecting a high school pupil to disciplinary sanctions solely on the basis of conduct that is speech or other communication that, when engaged in outside of the campus, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution. Existing law provides that pupils of the public schools have the right to exercise freedom of speech and of the press, including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the right of expression in official publications, whether or not the publications or other means of expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Existing law requires each governing board of a school district and each county board of education to adopt rules and regulations in the form of a written publications code, that shall include reasonable provisions for the time,

place, and manner of conducting these activities within its respective jurisdiction.

This bill, the Religious Viewpoints Antidiscrimination Act or the Schoolchildren's Religious Liberties Act would require a school district to treat a pupil's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a pupil's voluntary expression of a secular or other viewpoint and prohibit discrimination against a pupil based on the religious viewpoint expressed.

This bill would require a district to adopt a policy that must include the establishment of a limited public forum for student speakers at all school events at which a pupil may speak publicly, as specified. This bill would provide that pupils have the right to express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions and to organize prayer groups or religious clubs or gatherings before, during, and after school to the same extent that pupils are permitted to organize other noncurricular student activities and groups. This bill would also require religious groups to be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the pupils' expression and advertise or announce meetings of the groups.

If pupil groups that meet for nonreligious activities are permitted to, the school district may not discriminate against groups that meet for prayer or other religious speech. The bill would allow school districts to disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech. The bill would also provide that if a school district adopts and follows a model policy governing voluntary religious expression in public schools as specified, the district is in compliance with the provisions of the act covered by the model policy.

Because this bill would require school districts to perform additional duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it would take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Religious Viewpoints Antidiscrimination Act.

3 SEC. 2. Section 48950.1 is added to the Education Code, to
4 read:

5 48950.1. (a) A school district shall treat a pupil's voluntary
6 expression of a religious viewpoint, if any, on an otherwise
7 permissible subject in the same manner the district treats a pupil's
8 voluntary expression of a secular or other viewpoint on an
9 otherwise permissible subject and may not discriminate against
10 the pupil based on a religious viewpoint expressed by the pupil on
11 an otherwise permissible subject.

12 (b) To ensure that the school district does not discriminate
13 against a pupil's publicly stated voluntary expression of a religious
14 viewpoint, if any, and to eliminate any actual or perceived
15 affirmative school sponsorship or attribution to the district of a
16 pupil's expression of a religious viewpoint, if any, a school district
17 shall adopt a policy that includes the establishment of a limited
18 public forum for student speakers at all school events at which a
19 pupil may speak publicly. The policy regarding the limited public
20 forum must also require the school district to:

21 (1) Provide the forum in a manner that does not discriminate
22 against a pupil's voluntary expression of a religious viewpoint, if
23 any, on an otherwise permissible subject.

24 (2) Provide a method, based on neutral criteria, for the selection
25 of pupil speakers at school events and graduation ceremonies.

26 (3) Ensure that a pupil speaker does not engage in obscene,
27 vulgar, offensively lewd, or indecent speech.

28 (4) State, in writing, that the pupil's speech does not reflect the
29 endorsement, sponsorship, position, or expression of the district.

30 (c) The school district disclaimer required by paragraph (4) of
31 subdivision (b) shall be provided at all graduation ceremonies. The

1 school district shall also continue to provide the disclaimer at any
2 other event in which a pupil speaks publicly for as long as a need
3 exists to dispel confusion over the district's nonsponsorship of the
4 pupil's speech.

5 (d) Pupil expression on an otherwise permissible subject may
6 not be excluded from the limited public forum because the subject
7 is expressed from a religious viewpoint.

8 (e) Pupils may express their beliefs about religion in homework,
9 artwork, and other written and oral assignments free from
10 discrimination based on the religious content of their submissions.
11 Homework and classroom assignments shall be judged by ordinary
12 academic standards of substance and relevance and against other
13 legitimate pedagogical concerns identified by the school district.
14 Pupils shall not be penalized or rewarded on account of the
15 religious content of their work.

16 (f) Pupils may organize prayer groups, religious clubs, "see you
17 at the pole" gatherings, or other religious gatherings before, during,
18 and after school to the same extent that pupils are permitted to
19 organize other noncurricular pupil activities and groups. Religious
20 groups shall be given the same access to school facilities for
21 assembling as is given to other noncurricular groups without
22 discrimination based on the religious content of the students'
23 expression. If pupil groups that meet for nonreligious activities
24 are permitted to advertise or announce meetings of the groups, the
25 school district shall not discriminate against groups that meet for
26 prayer or other religious speech. A school district may disclaim
27 school sponsorship of noncurricular groups and events in a manner
28 that neither favors nor disfavors groups that meet to engage in
29 prayer or religious speech.

30 SEC. 3. Section 48950.2 is added to the Education Code, to
31 read:

32 48950.2. (a) If a school district adopts and follows the model
33 policy governing voluntary religious expression in public schools
34 as defined in subdivision (b), the district is in compliance with the
35 provisions of Section 48950.1 covered by the model policy.

36 (b) As used in this section, "model policy" means a local policy
37 adopted by the school district that is substantially identical to the
38 following:
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ARTICLE I

PUPIL EXPRESSION OF RELIGIOUS VIEWPOINTS

The school district shall treat a pupil's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a pupil's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the pupil based on a religious viewpoint expressed by the pupil on an otherwise permissible subject.

ARTICLE II

PUPIL SPEAKERS AT NONGRADUATION EVENTS

The school district hereby creates a limited public forum for pupil speakers at all school events at which a pupil is to speak publicly. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion. Pupil speakers shall introduce:

- (1) Football games.
- (2) Any athletic events designated by the district.
- (3) Opening announcements and greetings for the schoolday.
- (4) Any additional events designated by the district, which may include, without limitation, assemblies and pep rallies.

The forum shall be limited in the manner provided by this article.

Only those pupils in the highest two grade levels of the school and who hold one of the following positions of honor based on neutral criteria are eligible to use the limited public forum: student council officers, class officers of the highest grade level in the school, captains of the football team, and other pupils holding positions of honor as the school district may designate.

An eligible pupil shall be notified of the pupil's eligibility, and a pupil who wishes to participate as an introducing speaker shall submit the pupil's name to the student council or other designated body during an announced period of not less than three days. The announced period may be at the beginning of the school year, at the end of the preceding school year so pupil speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester.

The names of the volunteering pupil speakers shall be randomly

1 drawn until all names have been selected, and the names shall be
2 listed in the order drawn. Each selected pupil will be matched
3 chronologically to the event for which the pupil will be giving the
4 introduction. Each pupil may speak for one week at a time for all
5 introductions of events that week, or rotate after each speaking
6 event, or otherwise as determined by the district. The list of pupil
7 speakers shall be chronologically repeated as needed, in the same
8 order. The district may repeat the selection process each semester
9 rather than once a year.

10 The subject of the pupil introductions must be related to the
11 purpose of the event and to the purpose of marking the opening
12 of the event, honoring the occasion, the participants, and those in
13 attendance, bringing the audience to order, and focusing the
14 audience on the purpose of the event. The subject must be
15 designated, a pupil must stay on the subject, and the pupil may not
16 engage in obscene, vulgar, offensively lewd, or indecent speech.
17 The school district shall treat a pupil's voluntary expression of a
18 religious viewpoint, if any, on an otherwise permissible subject in
19 the same manner the district treats a pupil's voluntary expression
20 of a secular or other viewpoint on an otherwise permissible subject
21 and may not discriminate against the pupil based on a religious
22 viewpoint expressed by the student on an otherwise permissible
23 subject.

24 For as long as there is a need to dispel confusion over the
25 nonsponsorship of the pupil's speech, at each event in which a
26 pupil will deliver an introduction, a disclaimer shall be stated in
27 written or oral form, or both, such as, "The pupil giving the
28 introduction for this event is a volunteering pupil selected on
29 neutral criteria to introduce the event. The content of the
30 introduction is the private expression of the pupil and does not
31 reflect the endorsement, sponsorship, position, or expression of
32 the school district."

33 Certain pupils who have attained special positions of honor in
34 the school have traditionally addressed school audiences from time
35 to time as a tangential component of their achieved positions of
36 honor, such as the captains of various sports teams, student council
37 officers, class officers, homecoming kings and queens, prom kings
38 and queens, and the like, and have attained their positions based
39 on neutral criteria. Nothing in this policy eliminates the
40 continuation of the practice of having these pupils, irrespective of

1 grade level, address school audiences in the normal course of their
2 respective positions. The school district shall create a limited public
3 forum for the speakers and shall treat a pupil's voluntary expression
4 of a religious viewpoint, if any, on an otherwise permissible subject
5 in the same manner the district treats a pupil's voluntary expression
6 of a secular or other viewpoint on an otherwise permissible subject
7 and may not discriminate against the pupil based on a religious
8 viewpoint expressed by the pupil on an otherwise permissible
9 subject.

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12 ARTICLE III

13 PUPIL SPEAKERS AT GRADUATION CEREMONIES

14 The school district hereby creates a limited public forum
15 consisting of an opportunity for a pupil to speak to begin graduation
16 ceremonies and another pupil to speak to end graduation
17 ceremonies. For each speaker, the district shall set a maximum
18 time limit reasonable and appropriate to the occasion.

19 The forum shall be limited in the manner provided by this article.

20 Only pupils who are graduating and who hold one of the
21 following neutral criteria positions of honor shall be eligible to
22 use the limited public forum: student council officers, class officers
23 of the graduating class, the top three academically ranked
24 graduates, or a shorter or longer list of student leaders as the school
25 district may designate. A student who will otherwise have a
26 speaking role in the graduation ceremonies is ineligible to give the
27 opening and closing remarks. The names of the eligible
28 volunteering pupils will be randomly drawn. The first name drawn
29 will give the opening and the second name drawn will give the
30 closing.

31 The topic of the opening and closing remarks must be related to
32 the purpose of the graduation ceremony and to the purpose of
33 marking the opening and closing of the event, honoring the
34 occasion, the participants, and those in attendance, bringing the
35 audience to order, and focusing the audience on the purpose of the
36 event.

37 In addition to the pupils giving the opening and closing remarks,
38 certain other pupils who have attained special positions of honor
39 based on neutral criteria, including, without limitation, the
40 valedictorian, will have speaking roles at graduation ceremonies.

1 For each speaker, the school district shall set a maximum time
2 limit reasonable and appropriate to the occasion and to the position
3 held by the speaker. For this purpose, the district creates a limited
4 public forum for these pupils to deliver the addresses. The subject
5 of the addresses must be related to the purpose of the graduation
6 ceremony, marking and honoring the occasion, honoring the
7 participants and those in attendance, and the pupil's perspective
8 on purpose, achievement, life, school, graduation, and looking
9 forward to the future.

10 The subject must be designated for each pupil speaker, the pupil
11 must stay on the subject, and the pupil may not engage in obscene,
12 vulgar, offensively lewd, or indecent speech. The school district
13 shall treat a pupil's voluntary expression of a religious viewpoint,
14 if any, on an otherwise permissible subject in the same manner the
15 district treats a pupil's voluntary expression of a secular or other
16 viewpoint on an otherwise permissible subject and may not
17 discriminate against the pupil based on a religious viewpoint
18 expressed by the pupil on an otherwise permissible subject.

19 A written disclaimer shall be printed in the graduation program
20 that states, "The pupil who will be speaking at the graduation
21 ceremony were selected based on neutral criteria to deliver
22 messages of the pupil's own choices. The content of each student
23 speaker's message is the private expression of the individual
24 student and does not reflect any position or expression of the school
25 district or the board of trustees, or the district's administration, or
26 employees of the district, or the views of any other graduate. The
27 contents of these messages were prepared by the pupil volunteers,
28 and the district refrained from any interaction with pupil speakers
29 regarding the student pupil's viewpoints on permissible subjects."
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31 32 ARTICLE IV

33 RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

34 Pupils may express their beliefs about religion in homework,
35 artwork, and other written and oral assignments free from
36 discrimination based on the religious content of the pupils'
37 submission. Homework and classroom work shall be judged by
38 ordinary academic standards of substance and relevance and against
39 other legitimate pedagogical concerns identified by the school.
40 Pupils may not be penalized or rewarded on account of religious

1 content. If a teacher's assignment involves writing a poem, the
2 work of a student who submits a poem in the form of a prayer or
3 a psalm, shall be judged on the basis of academic standards,
4 including literary quality, and not penalized or rewarded on account
5 of its religious content.
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8 ARTICLE V
9 FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND
10 ACTIVITIES

11 Pupils may organize prayer groups, religious clubs, "see you at
12 the pole" gatherings, and other religious gatherings before, during,
13 and after school to the same extent that pupils are permitted to
14 organize other noncurricular pupil activities and groups. Religious
15 groups must be given the same access to school facilities for
16 assembling as is given to other noncurricular groups, without
17 discrimination based on the religious content of the group's
18 expression. If pupil groups that meet for nonreligious activities
19 are permitted to advertise or announce the groups' meetings, for
20 example, by advertising in a pupil newspaper, putting up posters,
21 making announcements on a pupil activities bulletin board or public
22 address system, or handing out leaflets, school authorities shall
23 not discriminate against groups that meet for prayer or other
24 religious speech. School authorities may disclaim sponsorship of
25 noncurricular groups and events, provided they administer the
26 disclaimer in a manner that does not favor or disfavor groups that
27 meet to engage in prayer or other religious speech.
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30 SEC. 4. If the Commission on State Mandates determines that
31 this act contains costs mandated by the state, reimbursement to
32 local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.

35 SEC. 5. This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or safety within
37 the meaning of Article IV of the Constitution and shall go into
38 immediate effect. The facts constituting the necessity are:

- 1 In order to prevent punishment of pupils who engage in voluntary
- 2 expression of a religious viewpoint, it is necessary that this act
- 3 take effect immediately.