Noncurriculum-Related Student Clubs/Groups on Secondary Campuses

When students seek to meet on school grounds during noninstructional time for the purpose of pursuing religious, political and philosophical ideas, the constitutional right of freedom of assembly is implicated. The Equal Access Act (EAA) is a law that governs the rights of secondary students to meet for these purposes (Authority: 20 USC §4071). This Act does not apply to elementary students.

The EAA provides that “It shall be unlawful for any public secondary school which receives federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.” The Act applies to schools provided the following circumstances are present:

- the school receives federal funding;
- the school maintains a limited open forum; and
- the school allows a non-curriculum-related student group to meet on school premises during noninstructional time. Katy ISD has, by local policy, established limited open forums at the secondary level (Board Policy FNAB).

According to the Act, a limited open forum occurs “whenever a school grants an offering to or opportunity for one or more noncurriculum-related secondary student groups to meet on school premises during noninstructional time.” In a nutshell, the EAA requires that public secondary schools which allow any noncurricular student groups to meet at school during noninstructional time to make that opportunity available on the same terms to all student groups interested in exploring their religious, political or philosophical ideas.

If a student group is permitted to organize, there are certain guidelines which govern the meeting to ensure that there is no infringement of the Constitution’s basic guarantees. Among these guidelines include the following:

- the meeting must be voluntary and student initiated;
- the meeting must not be sponsored by the school, its agents or employees;
- employees or agents of the school, if present at religious-oriented meetings, must appear only in a nonparticipatory capacity;
the meeting must not materially and substantially interfere with the orderly conduct of educational activities within the school; and

- non-school persons may not direct, conduct, control, or regularly attend activities of student groups. (Katy ISD does not permit visitors or outside speakers to attend at any time.)

1. **What is a noncurriculum-related student group?**

A “noncurriculum-related student group” is a club or student group which focuses on an issue or activity “not directly related” to a course offered by the school. Local school authorities must determine whether a group is noncurriculum related, based upon consideration of whether the group’s subject matter is taught in a specific course or concerns the body of courses as a whole, or whether participation in the group is required for a course or academic credit. For example, while the Spanish club may be a curriculum-related group, the chess club or Bible group would be a noncurricular group.

Local school authorities may not discriminate against a club based on the issue or activity nor may they:

- influence the form or content of any prayer or other religious activity;
- require any person to participate in prayer or other religious activity;
- expend public funds beyond the incidental cost of providing the space for student-initiated meetings;
- compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;
- sanction meetings that are otherwise unlawful;
- limit the rights of groups of students which are not of a specified numerical size; or
- abridge the constitutional rights of any person.

2. **What is considered noninstructional time?**

“Noninstructional time” is time which a campus sets aside before classroom instruction begins or after classroom instruction ends.
3. What restrictions are placed on noncurriculum-related groups

The EAA dictates that these groups:

- be student-initiated;
- be student-sponsored and student-led; and
- be voluntary in terms of participation.

In addition, the District restricts the membership to students currently enrolled at the campus where the group meets. No guests or outside speakers are permitted to attend.

4. Where can guidelines for noncurriculum-related student groups be found?

The guidelines to be followed by noncurriculum-related student groups are detailed in the Administrative Regulation at FNAB.

5. Is it permissible for parents and community members to participate in “See You at the Pole?”

No. House Bill 3678 made revisions in Section 25.154 of the Texas Education Code in which “See You at the Pole” was been specifically named as a noncurricular student activity. The statute states: “Students may organize prayer groups, religious clubs, ‘see you at the pole’ gatherings, or other religious gatherings before, during, or after school to the same extent that students are permitted to organize other noncurricular student activities and groups.” While the intent was to give religious groups equal access, the change in language requires that students follow the guidelines in the Administrative Regulation at FNAB in order to organize and participate in “See You at the Pole.”

Limited open forums are restricted to secondary schools because these clubs or groups have to be student-initiated, student-sponsored, and student-led. In order for students to participate in “See You at the Pole,” at least one student from the campus will need to submit an application form (See Exhibit A in the Administrative Regulations at FNAB) and secure a monitor. There is no reason that the application process has to be overly cumbersome, but the “See You at the Pole” event must be treated in the same manner as other noncurricular events in order to comply with statute and provide equal access.

Only students currently enrolled at the campus are allowed to participate. Guests are not allowed to participate. The same holds true for the monitor selected to ensure the safety or orderliness of the activity.
6. **Is a Fellowship of Christian Athletes (FCA) group allowed to meet on campus?**

Yes. As long as this noncurriculum-related group is student-sponsored, student-initiated, and student-led as specified in the Administrative Regulation at FNAB. A school employee, acting as the monitor for the group, however, may not have any involvement in the planning, advertising, or facilitation of any of the meetings.

In contrast, a school employee may sponsor an FCA group off campus in the same manner as any other member of the community. The employee may not, however, use their position or access to students to communicate with students about the meetings or to advertise the meetings at school.

7. **What are the responsibilities of staff members selected as monitors for noncurriculum related student groups?**

Monitors are responsible for attending all meetings of the group and for maintaining order and ensuring that all students adhere to the behavioral expectations outlined in the Board-approve Discipline Management Plan and Student Code of Conduct.

Monitors cannot be affiliated with nor actively participate in a noncurriculum-related student group. Monitors are prohibited from having any involvement in planning, advertising, or facilitating meetings.