

No Child Left Behind and School Prayer

On February 7, 2003, the U.S. Secretary of Education issued guidance regarding constitutionally protected prayer in public elementary and secondary schools. The purpose of the guidance is to provide state educational agencies, i.e., the Pennsylvania Department of Education, local educational agencies, i.e., school districts, vo-techs, and intermediate units, and the public with information on the implementation of Section 9524 (School Prayer) of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act.

A key part of the guidance is that Section 9524 requires, as a condition of receiving ESEA funds, that a local educational agency certify in writing to their state educational agency that they have no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools. For instance, local educational agencies must allow prayer provided it happens outside of classroom instruction and is initiated by students, not school officials. Also, teachers are permitted to meet for prayer or Bible study before school or during lunch, provided they make clear they are not acting in their official capacities.

Section 9524 also requires that local educational agencies provide this policy certification to the state by October 1 of each year during which they participate in an ESEA program. The initial deadline for compliance was October 1, 2002. However, given the lateness of this guidance, the U.S. Secretary of Education has extended the first year deadline until March 15, 2003.

Clients who have questions regarding issues discussed in this article or who would like us to review your policies to determine whether they satisfy U.S. Department of Education's guidance on school prayer should feel free to call us at 215-345-9111.