



HB 1356 GUIDANCE: YOUTH PATRIOTIC SOCIETY ACCESS

This past session, the North Dakota Legislature passed HB 1356, which requires school districts to allow youth patriotic societies access to students during the first quarter of each academic year to inform students about the society and to explain how students may participate in or join the society. “Youth patriotic society” means a youth group that promotes patriotism, civic education, and civic involvement, listed under title 36, United States Code, subtitle II, part b, as of January 1, 2021. By that definition, organizations such as the Boy Scouts, Girls Scouts, National FFA, Little League Baseball and Big Brothers/Big Sisters would qualify as a "youth patriotic society." In total, Title 36 lists 92 non-profit organizations chartered by Congress as having “a patriotic, charitable, historical or educational purpose.”

NDSBA strongly opposed HB 1356 during the legislative session because it removes the ability of local school districts to make decisions regarding access to students by outside groups during school hours. NDSBA also opposed the bill due to the concern that if it were to pass, compliance may force districts to create an open forum for free speech purposes. By way of explanation, the First Amendment to the U.S. Constitution does not guarantee access to property simply because it is owned or controlled by the government. But if government does open non-traditional forums (such as public schools) for expressive activities, it generally may not discriminate on the basis of content or viewpoint in granting access. Said differently, public schools are not generally *required* to open their facilities to any community group; however, when they do, all groups must be treated the same. Schools may impose reasonable time, place, and manner restrictions on access, but these restrictions must generally be content-neutral.

To help school districts navigate through these issues and comply with the new requirements, NDSBA has created template policy FFL (Youth Patriotic Society Access). The policy provides the following list of criteria that youth patriotic societies must meet in order to present information to students during school hours:

- Provide school administration with written notice of its intent to speak to students by a certain deadline as designated by the school;
- Submit to school administration any written materials intended to be shared with students in advance of the presentation;
- Limit the subject matter of the presentation to providing information to students about the society and how students may participate or join the society;
- Limit the presentation to a designated number of minutes;





- Comply with applicable state law and district policy/regulations while on school property; and
- Refrain from engaging in disruptive conduct that may interrupt or interfere with the orderly operation/management of the district, or that is insulting, harassing, or threatening toward district personnel.

It also confirms that student participation in such presentations is voluntary and written consent by a parent/guardian is required before a student is permitted to attend any youth patriotic society presentation. Finally, the policy includes a statement that by providing access to youth patriotic societies as required by law, the school districts do not intend to create a public forum for purposes of free speech or expression.

Policy Services members may access template policy FFL through the policy services website. If you are not a member, please contact NDSBA for information on how to join. Should you have questions regarding HB 1356 and its impact on public schools, please contact NDSBA or your district's legal counsel.

