



**DEPARTMENT OF DEFENSE  
EDUCATION ACTIVITY  
4040 NORTH FAIRFAX DRIVE  
ARLINGTON, VA 22203-1635**

DoDEA General Counsel

08-GC-001

Date May 7, 2008

**DEPARTMENT OF DEFENSE EDUCATION ACTIVITY  
POLICY MEMORANDUM**

**Subject: Equal Access to DoDEA School Facilities by Noncurriculum Related Student Groups**

It is the policy of the Department of Defense Education Activity (DoDEA) that the following standards apply to noncurriculum related student groups' use and access to DoDEA school facilities. Although DoDEA recognizes that the Equal Access Act, codified at 20 U.S.C. §§ 4071 et seq., does not apply to DoDEA schools, DoDEA recognizes that noncurriculum related student groups should be afforded equal access to school facilities. Accordingly, it is the policy of DoDEA that all schools that maintain a "limited open forum" shall provide equal access to school facilities.

Nothing in this policy shall be construed to limit the authority of DoDEA, DoDDS, DDESS, or its employees, to maintain order and discipline on school premises and to protect the well being of students and faculty. Further, nothing in this policy requires schools to allow access to noncurriculum related student groups. However, if a school has at least one such group, it must either discontinue its practice of allowing noncurricular groups access to the schools or provide equal access to all other noncurriculum related student groups as provided herein.

In accordance with DoDEA policies and regulations, it is the responsibility of each school having a "limited open forum" to ensure all noncurriculum related student groups that are permitted to use school facilities adhere to the following standards:

1. Noncurriculum related student groups shall meet only during noninstructional time.
2. All meetings shall be student-initiated and open to all students in the school. Student attendance at any meeting shall be voluntary.
3. All student groups must have a faculty or school employee monitor. A faculty monitor or other school employee may only attend a meeting for custodial purposes, monitoring activities to ensure compliance with applicable school policies. If a proposed

student group is unable to find a faculty member or other school employee to volunteer for this purpose, the group will not be permitted access to school facilities.

4. Student groups may invite nonschool persons to attend their meetings, as long as the nonschool persons do not direct, conduct, control, or regularly attend the meetings of the group. Nonschool persons must follow the school's established procedure for gaining access to school facilities.

5. This policy prohibits the use of school facilities for:

5.1. Any meeting that materially and substantially interferes with the orderly conduct of educational activities within the school;

5.2. Any meeting at which unlawful conduct is likely to occur;

5.3. Any meeting that threatens order and discipline on school premises;

5.4. Any meeting that threatens the well being of students and faculty; or

5.5. Any meeting at which attendance of the students is not completely voluntary.

5.6. Any meeting at which attendance is denied to any student based upon the student's race, color, sex, gender or gender preference, disability, religious preference, marital status, or political affiliation.

6. DoDEA, DoDDS, DDESS, and its employees shall not:

6.1. Sponsor any noncurriculum related student groups;

6.2. Participate in a religious meeting of a noncurriculum related student group;

6.3. Compel any employee to serve as a faculty monitor for a noncurriculum related student group;

6.4. Expend appropriated funds beyond incidental costs for noncurriculum related student groups; or

6.5. Impose a minimum size limit on student groups.

7. Definitions:

7.1. Incidental Costs. Lighting, heat, power, and other expenses necessary for the daily operation and use of school facilities.

7.2. Limited Open Forum. A school granting an offering to or opportunity for one or more noncurriculum related student groups using school facilities during noninstructional time.

7.3. Noncurriculum Related Groups. Student-led groups not “directly” related to a school’s curriculum. A group is directly related to the school’s curriculum if:

7.3.1. The subject matter of the group is actually taught, or will soon be taught, in a regularly offered course;

7.3.2. The subject matter of the group concerns the body of courses as a whole;

7.3.3. Participation in the group is required for a particular course;  
or

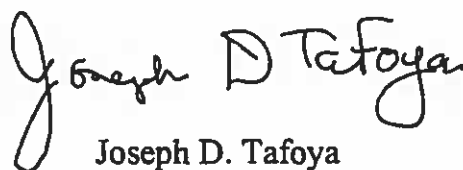
7.3.4. Participation in the group results in academic credit.

7.4. Noninstructional Time. Time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends. Schools that permit the use of facilities during lunch and recess periods shall make this time available to all noncurriculum related student groups.

7.5. Nonschool Persons. Persons who are not students or employees of the school.

Any policies, correspondence, or guidance provided in accordance with this policy shall be coordinated with the DoDEA Office of General Counsel prior to release or dissemination.

The provisions of this policy will be included in the next revision of DoDEA Manual 1001.5, “Administrator’s Manual.” Questions concerning this policy should be addressed to DoDEA General Counsel at (703) 588-3066.

  
Joseph D. Tafoya  
Director

C1.4.2.5. Comply with the responsibilities enumerated in DoD Directive 1015.5 (reference (d)) for the Student Meal Program.

C1.4.2.6. Fund second-destination transportation costs for DoDDS supplies and equipment (except for the Panama/Islands Region) in designated theaters.

C1.4.3. The Installation Commanders shall:

C1.4.3.1. Provide logistic and administrative support to local DoDDS activities, in accordance with this Manual, cost ceilings established by the DoDDS regional director and the applicable Interservice Support Agreement(s) (ISAs). That support includes all necessary contract procurement support needed by the DoDDS to ensure the enrollment of children in non-DoDDS schools, to transport children, and to obtain contracted supplies and services.

C1.4.3.2. Provide support engineering services, as in Chapter 5., below, when the construction of new school facilities or maintenance, repair, and O&M-funded minor construction projects are proposed.

C1.4.3.3. Provide services and/or equipment required, within mission constraints. Those services and/or equipment shall be provided at the same level as to all other users to include the installation's organizational units.

C1.4.3.4. Ensure that community use of the school facilities and/or equipment does not hinder, jeopardize, or interfere with the facility's primary educational purpose. School equipment and supplies must be conserved for dependents education. The following guidelines shall apply on the use of school facilities for purposes other than dependents education:

C1.4.3.4.1. Any command-sanctioned activity or organization wishing to use any of the school facilities and/or equipment, on a temporary or recurring basis, shall submit a written request to the installation commander. The request must specify the time, frequency, space, and equipment requirements by the activity or organization.

C1.4.3.4.2. Before granting approval, the installation commander shall, after determining that no other adequate base facilities are available, forward the request to the school principal for concurrence. The principal may approve or disapprove requests to use the school facilities and/or equipment. Before the use of equipment, the organization sponsor must enter into an agreement with the installation commander to ensure timely and effective repair or replacement of equipment lost,

damaged, or destroyed at no cost to the DoDDS. The base legal office shall review the agreement and a copy of the agreement shall be provided to the school principal.

C1.4.3.4.3. The activity sponsor shall ensure that the rooms used are left in the same condition as found and that the windows and doors are secured before departing. Failure on the part of an activity sponsor to ensure building cleanliness and security may result in forfeiture of the privilege to use the school.

C1.4.3.5. Provide copies of school leases to the school principal and the DoDDS regional office.

C1.4.3.6. Encourage all eligible dependents who have not completed high school to enroll in a DoDDS approved education program. If a DoDDS program is unsuitable to the parents, the installation commander shall encourage the parents to enroll their dependents in an alternate program.

C1.4.3.7. Inform the pertinent District Superintendent's Office of the names and duty locations of all known incoming school age dependents and ensure that the sponsors of such dependents are informed about school locations, commuting areas, and school sponsored meetings to introduce sponsors to school programs.

C1.4.3.8. Notify DoD sponsors and take corrective action when advised by the school principals of serious or repeated misbehavior, including truancy and criminal acts by students. Installation commanders agree to consider arrangements to permit the child to attend school even though action is taken to otherwise bar them from accessing the installation (for other than medical care). The installation commander shall also consider whether command sponsorship should be withdrawn.

C1.4.3.9. Provide cost estimates for reimbursable and direct cite logistic support services specified in the ISAs to the DoDDS regional director. Provide such reimbursable support commensurate with authorized funding and overall installation capability.

C1.4.3.10. Provide civilian personnel services for foreign national (FN) employees in accordance with applicable law, treaty, and regulation.

C1.4.3.11. Provide complete custodial service to school facilities (including leased DoDDS facilities, warehouses, and repair facilities) on a reimbursable or direct-cite basis. The DoDDS representative must be a primary contributor to the development of the performance work statement to ensure that the DoDDS requirements are met.