

# Commentary: Considerations for Texas school boards and chaplains

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A new law takes effect this Friday, Sept. 1, that will allow any school board in the state of Texas to vote on whether its schools may employ or accept as a volunteer a chaplain to serve as an official school representative.

This new law leaves school boards and community members grappling with questions about its legal implications and the effect adopting or not adopting this policy may have on students.

## Content of the new law

During this year's legislative session, Texas lawmakers added a new chapter to the Texas Education Code that allows public schools to employ or accept as a volunteer a chaplain to provide "support, services, and programs for students" as determined by the school board or governing body for the school.

[Senate Bill 763](#), now Chapter 23 of the Texas Education Code, states that any chaplain "employed or volunteering under this chapter is not required to be certified by the State Board for Educator Certification."

The author of the House version of the bill, Rep. Cole [Hefner, stated](#), "[S]chools may choose to do this or not, and they can put whatever rules and regulations in place that they see fit."

Put another way, the new law is *permissive*, not *mandatory*.

This means each school district and charter school in Texas must decide in the next six months whether to adopt a policy authorizing employed or volunteer school chaplains under Chapter 23.

This is uniquely different from how schools currently utilize chaplains in various ways, like a sports team chaplain who volunteers to help lead Bible studies or prayers with student-athletes, or the local minister who may volunteer to lead an annual See You at the Pole rally.

This law allows a chaplain to serve in an official capacity at the school, thus having total access to students throughout the school, just like any teacher or administrator would have.

## **Arguments for the bill**

First, lawmakers expressed concern in this session about the mental health crisis facing Texas, particularly mental health concerns for Texas students. Several legislators saw this law as a means to ensure students received proper support in districts struggling to staff their schools with counselors for students.

The rationale is many areas of Texas may have easier access to a pastor who could serve as a chaplain in the school, as opposed to finding a certified school counselor willing to live in a smaller rural community for a lower income than many of their bigger city counterparts.

Alternatively, some supporters of the law intend to use it as an attempt to allow Christian groups to evangelize in public schools. They look around culture, see a spiral of moral decay, and believe bringing in a Christian witness could help turn the moral tide of the next generation.

# Concerns and considerations

While the Texas Baptists' Christian Life Commission understands these observations, there are equally valid concerns regarding this new law.

Many opponents of the law rightly are uncomfortable with the lack of a definition for a "chaplain" and the lack of educational or training standards for chaplains allowed in schools.

According to the [Texas Education Agency](#), "a school counselor guides each student in planning, monitoring, and managing their educational, career, personal, and social development."

School counselors are more than mental health professionals. They often are key players in helping schools prepare and plan for school transitions, college admissions and other educational goals.

School counselors must have a master's degree and two years of teaching experience and must pass a certified school counselor exam. For many, the difference in professional qualifications of a "school chaplain" and "school counselor" is alarming.

The concern is even more pronounced when considering several other fields employ chaplains while maintaining high standards of qualification and education.

Over the last 20 years, Texas Baptists' Baptist Chaplaincy Relations ministry has endorsed more than 1,000 chaplains in the areas of military, correctional, lifestyle, public safety, healthcare, marketplace, crisis response and pastoral counseling. Texas Baptists is the fourth largest endorser of chaplains to the U.S. Armed Forces.

Standing on 20 years of experience and success, Texas Baptists keenly recognize the value of chaplains and the importance of properly training a

chaplain before endorsing him or her to work with anyone, especially vulnerable segments of the population like our children.

There also have been significant concerns about respecting the First Amendment rights of Texas students. Without guardrails directing chaplains or protecting students in Texas public schools, there is a genuine risk some chaplains for the purposes of Chapter 23 may violate students' rights, which could increase legal liability for school districts.

As such, Texas Baptists' Christian Life Commission supported several amendments that, if passed, would have added or strengthened guardrails for child safety and protection. Ultimately, the law did not include these necessary protections.

## **When Chapter 23 takes effect**

The new law states, "Each board of trustees of a school district and each governing body of an open-enrollment charter school shall take a record vote not later than six months after the effective date of this Act."

Chapter 23 takes effect this Friday, Sept. 1, 2023. This means school boards and governing bodies of Texas public schools have until March 1, 2024, to decide whether to adopt a policy.

## **What school boards and governing bodies should do**

Ultimately, each school board should analyze the needs of the district it serves, listen to the desires and concerns of parents and children in the district, and follow the advice of the board's legal counsel.

With that understanding, the Christian Life Commission suggests several

areas of consideration:

- **Consider whether the schools in your district need additional help.** Many school districts already have excellent, well-qualified school counselors to support students. A chaplain policy may not be beneficial for schools already meeting students' needs.
- If the school board adopts a policy, **include additional safeguards and protections** that go beyond what is required by Chapter 23. Several amendments initially were included in versions of the bill that did not make the final version.

The Christian Life Commission and Texas Baptists' Chaplaincy Relations would welcome the opportunity to consult with any school leadership regarding best practices for such a policy.

- **Be careful not to discriminate** when employing or accepting volunteer chaplains. Adopting a policy that favors chaplains of certain faiths or disadvantages chaplains of certain faiths may violate First Amendment religious protections and create legal liability for your district.

Similarly, make clear to chaplains that using their position for proselytizing may violate the First Amendment religious protections of students.

- **Take the time to evaluate thoroughly.** The new policy doesn't need to be implemented right away. Use the time between now and March 1, 2024, to speak with qualified chaplains, your attorney and with your school counselors.

Listen to stakeholders in your community. Learn from what other districts are doing and pay attention to court cases, as there may be legal challenges regarding the new law.

# What school advocates can do

One of the key purposes of the Christian Life Commission is to help equip Texas Baptists to apply their faith as advocates on public policy. The following suggestions may be helpful to anyone desiring to get involved on the issue:

- Pray for your local school board(s) as they carefully consider this issue.
- Write a letter to your local school board explaining your view on the matter.
- Attend a school board meeting either to speak on the matter or as moral support for someone who is speaking.
- Start a petition and gather signatures from other stakeholders in your community with similar views on the matter. This can be included with your letter and/or presented at a school board meeting.

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