

# First Amendment Rights and Political Activities Issues

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With the start of the school year and the approaching November general elections, I just wanted to provide you with a quick reminder about issues related to the First Amendment and political activities. (The Attorney General's Office also suggested it, so . . . )

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## First Amendment Speech Rights

In general, the First Amendment protects an employee's speech if the employee is speaking as a private citizen on a matter of public concern. However, what a teacher says or communicates inside the classroom is generally considered to be attributable to the school district, and, therefore, the school district may regulate such speech. Also, certain types of speech outside the school might also not be protected.

All employees have a right to work and all students have a right to learn in a safe and welcoming environment which is free from discrimination and harassment. That right is protected by federal and state laws and regulations, and trumps the free speech rights of public employees in our school and workplace.

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## Classroom Displays with Political Speech

Schools have the authority to control employee political speech and what happens in the classroom. Political speech includes spoken communication, written communication, and non-verbal communication intended to communicate a message or idea. Therefore, political speech may include classroom decorations, posters, displays, and personal political expressions, including t-shirts or buttons (e.g., MAGA, Biden 2020, Defund Planned Parenthood, My Body My Choice, etc.).

Again, what a teacher says or communicates inside the classroom is considered speech communicated on behalf of the school district. Courts have concluded that displays in the classroom are curricular and bear the implicit endorsement of the school (even if the displays are about the teacher's personal views). Accordingly, courts have allowed school districts to require teachers to remove in-class banners and displays with a political message.



## Get Out There and VOTE!

Encouraging, in a neutral manner, voters to vote is 100% permissible.

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### Political Activities and Political Speech

We are expected to refrain from any political activity in our official capacity as district employees. Moreover, we are prohibited from engaging in political activities during contract time (or paid association leave time), and are prohibited from using school equipment, resources or materials to further a political position.

If you choose to provide information about a particular issue in a public forum in order to help our students, parents and/or community members become better informed, please make sure that all perspectives are represented. The public expects us to be fair and to provide accurate factual information for their consideration. Remember, school employees may not use their position to endorse, promote, or disparage a particular political, religious, sectarian, denominational, agnostic, atheistic belief or viewpoint.

Except within the context of course curriculum, a teacher may not use the classroom to advocate a specific political agenda. A public classroom is reserved for its intended purpose of imparting relevant instruction and is not an open forum for employees to engage in political speech.

A school employee may respond in an appropriate and professional manner to a spontaneous question from a student regarding the employee's personal political or religious belief or perspective. However, because of the special position of trust held by school employees, the employee should not advocate or encourage acceptance of a particular political or religious belief or perspective.

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### Wearing Religious or Political Items at School

Teachers have the right to "quietly express" their personal religious views or beliefs by wearing items of jewelry imbued with religious meaning." However, if a particular item causes a substantial disruption of the school environment, or if the teacher uses the item to proselytize or coerce students/colleagues to engage in religious activity, the school may regulate the activity.

Wearing items that express political views is trickier. Courts have upheld a school's ban on teachers wearing targeted political items in order to avoid the appearance that the school was endorsing a candidate and to ensure that students can learn "in an environment free of partisan political influence." Schools may also regulate speech regarding contentious, divisive, current events which have the potential to disrupt the mission of the school or to impede the effectiveness of the teacher.

## Employee Speech on Social Media

In general, an employee's speech outside of school on social media that is not related to an employee's official duties and is matter of public concern would be protected by the First Amendment. However, the following types of social media posts may be regulated by the district:

1. if it is more of a private grievance with the employer; and/or
  2. if it relates to comments about students, coworkers, school, or other work-related matters, and/or
  3. if it negatively impacts the employee's effectiveness and impairs the ability to maintain an efficient, disruptive-free workplace/learning environment.
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## Facility Rentals

We may make meeting facilities available to registered political parties to be used for political party activities so long as such decisions are made in a non-discriminatory manner, the party makes the request at least 30 calendar days in advance, and the facilities are not otherwise reserved. Please direct all requests to use a building or our grounds for political activities to Kaylene Leato, the district's Rental Coordinator, at 801-974-8367.

## Distributing Political Materials or Campaigning

The law clearly states that we cannot make any expenditure of public funds for political purposes or to influence a ballot proposition. We do not allow outside groups or individuals to come onto our campuses to distribute political materials, nor are we allowed to do so. If anyone comes onto school property for that purpose, please help them understand our policy and ask them to leave. Soliciting funds or campaign contributions is also prohibited on school property.

If candidates have questions about what they can or can't do on school properties, please feel free to refer any political candidates to Yandary Chatwin, Communications, at 801-578-8271.

Nothing prohibits a teacher or school official from campaigning or advocating for or against a ballot proposition after school hours, i.e. on non-contract time.

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Please contact Kristina Kindl, Executive Director of Policy and Legal Services, [kristina.kindl@slcschools.org](mailto:kristina.kindl@slcschools.org).