

First Amendment rights in the classroom: Advice to our members

Preface: Because of the unique relationship that exists between teachers and students, teachers must be judicious in expressing their political opinions to avoid politicizing the classroom or disrupting the learning environment. Instruction should be age and developmentally appropriate and consistent with district curriculum and content standards. Normally, teachers should endeavor to provide neutral environments where students are able to explore and express their viewpoints as part of the learning process, rather than using their unique access to students to forward their personal views on matters of political controversy. JCEA/CEA provides the following information to help teachers make appropriate professional decisions regarding the expression of First Amendment rights:

1. Teachers do not shed their constitutional, including First Amendment, rights when they become teachers or when they enter the schoolhouse door. Because of multiple interpretations by the courts, however, it is not always clear how, when, and where those rights may be expressed.
2. The question for a teacher to ask is whether it is appropriate to express a personal political viewpoint while teaching students. To some degree, the answer may depend upon the age and developmental levels of the students involved and what the culture is in the school and school district.
3. It is not that the teacher does not have the “right” to express his/her political views. Rather, it is important for the teacher to consider the effect that personal expression may have on the students in the classroom, on his/her effectiveness as a teacher, and on the parents of the students. This is an important question because teachers are adults in a position of respect and authority in the classroom.
4. Teachers need to check their district policies regarding the wearing of political buttons (especially true during mill, bond, and all other elections) and the teaching of controversial issues. JPS’ “Teaching About Controversial/Sensitive Issues” Policy (IMB) and its Regulation (IMB-R) provide guidance. If they are members of the Association and they believe the policy—or its interpretation—may violate their free speech rights, they should check with JCEA or CEA Legal Services (phone numbers below.)
5. It is generally appropriate for a teacher, providing he/she considers the level of students being taught, to teach or at least discuss “controversial” issues, including political, sociological, etc., issues. When a teacher does this, we recommend that the teacher evenly and fairly present all sides of the issue and have as primary goals raising the students’ awareness of the issue and helping them develop critical thinking skills so they can form their own opinions. Generally, teachers are advised to refrain from providing personal opinions as the basis for the discussion or instruction and instead remain neutral. If asked for a personal opinion, we recommend teachers not share that information until after the discussion is completed or the teaching objective has been achieved.
6. Another factor which must be considered is the setting in which the political expression is taking place. The district, as a general rule, can regulate speech or expression occurring in the classroom. The key word is “regulate” - i.e., by requiring that all sides of the political issue be discussed. If the District allows some pins with a political message (e.g. flag jewelry) they have to allow others (e.g. peace symbol jewelry). In other words, if they allow such pins, they can’t discriminate based on the **content** of the message.

Clearly, the district can lawfully regulate political speech in the classroom or at other school sponsored events where students are present. However, a teacher who chooses to wear a personal political view on a button to a faculty meeting, or an in-service, where children are not present, is fully within his/her constitutional rights to do so.

7. If a teacher is a member of the Association, we can certainly advise him/her about the choice to wear a button or otherwise express opinions on controversial issues. Rather than risk being accused of insubordination, any teacher who is ordered to remove a button or refrain from discussing controversial issues should do so and **immediately** contact JCEA or CEA Legal Services. CEA lawyers will then review each situation on its specific legal merits.

For consultation or information call: JCEA (303-232-6405) or CEA Legal Services (303-837-1500).

