



WHAT CAN I TEACH? WHAT CAN I SAY?

Frequently Asked Questions

Do educators have First Amendment rights to speak up at school? What about outside of school?

*Supreme Court ruled in **Garcetti v. Ceballos** that public employees generally do not have First Amendment protection for their on-the-job speech.*

The First Amendment enshrines the right to speak out, to assemble, and to speak without being punished. But this right is not absolute, and public employees, like public educators, have limited First Amendment rights.

- *Before speaking out or participating in an action, it is always good to ask yourself two questions:*
 - 1) *Which hat will you be wearing when you speak – an educator’s or private citizen’s? and*
 - 2) *What are you speaking about? Is it a topic of general public concern, or a personal grievance?*

Generally, a public educator has the greatest free speech rights when speaking as a private citizen (outside of school and not to students or parents) about issues of public concern. You may have no First Amendment protections at all when speaking as an employee (in school or to students or parents) or about workplace or personnel issues outside of school.

So, for example, an educator who speaks out about a hot-button political matter such as gun control outside of the school will be protected by the First Amendment. But sharing an opinion in class about the same issue may not be protected. Educator speech about personal issues or specific workplace complaints would also not be protected.

What do I do if a parent has a problem with something I am teaching?

First and foremost, make sure you have read your school district’s parental complaint policy. Some with a political agenda are trying to undermine public education by inciting paranoia among families, causing some to jump to conclusions about what is happening in our classrooms. If a calm conversation does not diffuse the situation, seek backup from your administration and local UniServ director. If you fear you will be disciplined due to parental complaints about your curriculum, contact your building rep or UniServ director to make sure all policies have been followed. If policies have been violated, your local association can assist you in seeking appropriate remedies.

What about my classroom Black Lives Matter or Pride flag?

Educators want to create inclusive environments for our students including students of color and LGBTQ students. Stating that Black Lives Matter or that LGBTQ students are valued is important to ensure they have equitable access to education and resources.

However, schools can limit or dictate what messages teachers can convey in school, but they cannot discriminate based upon race or gender, and should not pick and choose which political messages are acceptable. If your administrator asks you to remove a BLM poster or a Pride flag, do so immediately so you are not insubordinate, but then contact your building rep or UniServ director. If your employer disciplines or threatens to discipline you for displaying a flag or poster or wearing a shirt or button, you should contact your local or state affiliate right away.

Student speech in school, on the other hand, is more protected than educator speech. Student speech can only be prohibited if it is disruptive. A

political message on a student's shirt is not considered disruptive. If you are asked by an administrator to discipline a student for wearing a shirt with a specific political message or in support of a specific political organization, you should contact your local association or UEA for guidance.

What about curricula like the 1619 Project and Black Lives Matter at School?

The best advice is to follow the Utah state standards when developing your lesson plans and use the district-approved curriculum. Educators should not teach curricula that are explicitly prohibited by their administration.

Can I do an Indigenous land acknowledgment?

A land acknowledgment can be an engaging way for students to recognize our history. Educators can opt to do land acknowledgments unless told otherwise by their administration.

I have been told by my administration I cannot teach Critical Race Theory. How does that impact me?

Critical Race Theory is taught in universities and law schools, but at the PK-12 and community college levels, we teach age-appropriate lessons that help our students understand and communicate across differences and portray a holistic and accurate picture of our nation's history.

What other laws might protect educators?

Utah has continuing contract laws. Under these laws, an employer must show cause to discipline or terminate a teacher who is beyond three years of service. Newer teachers and other educators may not have these rights, so they may want to act more cautiously.

Anti-discrimination laws may also provide additional protection against discipline or termination imposed because of your gender, race, ethnicity, religion or other protected characteristic.

All of these protections are typically strongest when educators are speaking on non-instructional time, and not in a classroom environment. You have the greatest protection when you are speaking outside of class to the public, including to public officials, rather than speaking in class or out of a class only to students. It's always a good idea to check with your local association or UEA about which other laws may apply.

What are educators' rights when posting on social media?

When posting on social media, you won't necessarily enjoy First Amendment protections. As with offline public speech, when you post online about issues of public concern, or about public policy, you are more likely to be protected by the First Amendment. But if you post about issues or concerns specific to your school, or about your situation, you are less likely to be protected. As with offline public speech, when you post online about issues of public concern, or about public policy, you are more likely to be protected by the First Amendment.

Here are a few examples:

- If you post to a closed group that is intended for students or parents (i.e. not public), you likely would not be protected.
- If you post about your personal life, your post would be viewed as a private rather than public concern and you would likely not be protected.
- If you post something on Facebook complaining about one student in particular, you would likely not be protected because you're speaking as an employee and not a citizen.
- If you share a Facebook post or retweet about a public event or action you would likely be protected.
- If you post or tweet urging people to vote or to call their representative to effect a change in public policy, you would likely be protected.

As a general rule, as with offline speech, when posting on social media ask what role you are playing. Are you posting as an educator or as a public citizen? And what are you discussing — private issues or issues of public concern?

Can my school discipline or fire me for participating in political activity during my free time?

As a general rule, no, you cannot be disciplined for participating in an action, march or rally on your own time, outside of work. This is the kind of activity that is most protected by the First Amendment. This would be considered free speech and assembly about an issue of public concern — the type of speech that has the highest level of protection under the First Amendment.