

MODEL POLICY #7

POLITICAL OR CONTROVERSIAL DISPLAYS IN THE CLASSROOM

Why Adopt This Policy?

School boards interested in eliminating controversial and political signs and decorations in the classroom should consider adopting this policy. It is viewpoint neutral; it does not favor any particular belief or political system. This policy seeks to foster a cohesive and focused learning environment and mitigate unnecessary distractions. By establishing clear guidelines, this policy aims to ensure classrooms remain spaces for inclusive and respectful dialogue, encouraging open discussions about diverse perspectives.

Policy

The purpose of this policy is to ensure an inclusive, effective, and focused learning environment for students and staff, regardless of personal beliefs or political opinions.

District personnel are prohibited from displaying political or controversial flags, signs, clothing, or accessories. This does not include the U.S. flag, the Wisconsin State flag, or the official flag of the municipality in which the school is located.

For purposes of this policy, a political or controversial statement refers to any symbol or physical representation that meets one or more of these criteria:

1. Is the subject of intense public argument, disagreement, or disapproval.
2. Includes political messages, such as displays of partisan political affiliation or advocacy for specific political candidates or parties.
3. Pertains to contentious ideologies, beliefs, or social issues.
4. Incites controversy, debate, or divisiveness within the school community.

If a teacher is not sure whether or not a specific item is “political or controversial,” he or she can consult the building principal for guidance and clarification. The principal shall assess the item in question based on this policy. If there is still uncertainty or disagreement, the matter will be escalated to the school board for a final determination, ensuring consistent interpretation and application of the policy across all district schools and personnel.

The school board acknowledges the right of its professional staff members, as citizens in a democratic society, to speak out on issues of public concern in non-school settings. The district shall balance its employees’ right to free

speech against the district's interests in an efficient, disruption-free workplace, consistent with applicable policies regarding employee expression and employee First Amendment rights.

Legal Analysis

While district professional staff certainly have First Amendment rights, the State, as an employer, has an interest in regulating the speech of its *employees*. As such, this policy balances the interests of the teacher as a *citizen* in commenting on matters of public concern, the interest of the public, and the interests of the State as an employer, in promoting the efficiency of the public services it performs through its employees.

Whether a teacher is speaking as a private citizen depends upon whether the speech at issue itself is ordinarily within the scope of an employee's duties. Since decorating a classroom and dressing for work is generally *within* the scope of an employee's duties, it is therefore not speech made as a private citizen and not protected by the First Amendment.

The U.S. Supreme Court has stated that when public employees make statements within the scope of their employment, they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline. *Garcetti v. Ceballos*, 547 U.S. 410, 126 S. Ct. 1951, 164 L. Ed. 2d 689 (2006).

Pickering v. Bd. of Ed. of Twp. High Sch. Dist. 205, Will Cnty., Illinois, 391 U.S. 563, 88 S. Ct. 1731, 20 L. Ed. 2d 811 (1968). Even if the employee was speaking as a private citizen, the speech must be balanced with the employer's ability to promote an effective and efficient public service. *Id.*



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