



Educator Free Speech Rights Under the First Amendment and the Education Employment Relations Act

Free Speech Rights FAQs Sheet

Post-election

**As an educator, what do you say?
Know Your Rights**



During off-duty time in non-instructional settings, educators have the right to communicate with other employees, parents and students about labor issues concerning UTLA or working conditions, as well as matters of public concern — including support for the rights of immigrant students and their families, social and racial justice initiatives such as Black Lives Matter, and opposition to the privatization of education in Los Angeles through efforts like **the Broad-Walmart Plan**.

- **UTLA supports educator rights to free speech** — please contact your UTLA Chapter Chairperson *immediately* if you have experienced retaliation, or email webmaster@utla.net.
- **Off-duty time** includes before and after school, duty-free lunch period, and any other scheduled work intermittency during the school day.
- **No prior approval from Administration is necessary.** Administrators cannot lawfully require educators to seek approval before communicating with colleagues, parents, the general public or the media on any labor or political matter, including those related to immigrant rights, during nonworking hours.
- **Educators have the right to discuss matters of public concern with students.** Educators cannot be disciplined for discussing current events — including topics that overlap with student demonstrations — during instructional time if they are relevant to the curriculum and the material is age appropriate. Educators have greater freedom to discuss political topics, including those related to immigrant rights, during non-instructional time, particularly where it is outside of the classroom environment and the conversation is student-initiated and the educator is responding to a student's questions. To the extent educators are informing students about after school or off campus events, the educator should state that the event is not mandatory, not part of the class, and will have no effect on student grades.



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FAQs (continued)

- **Educators can participate in student demonstrations during non-instructional time.** Educators may participate in student protests or actions over matters of public concern, occurring on campus before school, during the lunch period, or after school. Administrators and educators should not interfere with student free speech rights by prohibiting or limiting student demonstrations occurring during non-instructional time, unless they are disruptive to the education environment. Educators may face discipline for participating in student protests if the educators are on-duty or if the students leave the classroom during instructional time to join the protest.
- **A balanced approach is limited to ballot measures and candidates for election.** Educators are not legally required to give the other side or opposing viewpoints on labor issues. State law requires educators to give a fair and impartial presentation on ballot measures, only when District funds are being used in support or opposition to the ballot measure. Educators should not use District resources (such as an email system or faculty mailboxes) to communicate about individual candidates for election or ballot measures. Also, educators should provide an impartial presentation on candidates in the instructional setting. During nonworking time, educators as private citizens may speak freely about politics or other matters of public concern. School Administration and the District cannot retaliate against educators for exercising their First Amendment free speech rights.
- **Students deserve equal access to resources for extracurricular clubs.** Under the federal Equal Access Act, student clubs cannot be denied recognition because of religious, political, or philosophical content of the speech that would occur if the students were permitted to meet. Schools must provide all student organizations with equal access to meeting space, school supplies, or audio/visual equipment if the school has provided any of these items to one club. Educators can serve as club sponsors, and participate in meetings (except for religious meetings).
- **Educators should speak publicly!** Courts find educator speech is protected by the First Amendment when it is about matters of public concern raised *externally* with parents, students, UTLA, or the media, but courts have not granted the same kind of protection to speech critical of school administration/district when it relates to work and is raised *internally* to supervisors.