

STAFF PARTICIPATION IN POLITICAL ACTIVITIES

DRAFT

PROPOSED NEW POLICY FIRST READING MAY 18, 2022

The School Board recognizes that employees of the School District have certain civic rights. Employees, as citizens, have a right to engage in political activities and to speak as a citizen on matters of public concern. Nevertheless, this right to engage in political activities and to speak as a citizen on matters of public concern may be reasonably conditioned by the School Board as an employer when the employee is engaged in his or her work as an employee and is speaking pursuant to the employee's official duties. This policy defines the types of conduct that are not permitted. The US Supreme Court has held that when public employees make statements pursuant to their official duties, they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.

Employees will not advocate their personal political views or engage in political activities as defined in this policy when speaking pursuant to the employee's official duties during hours of official employment. Employees will not exploit students in any way to promote the employee's personal political views. Employees will not misrepresent their political views as those of the School District. Examples of activities that are not permitted include:

1. Representing personal political views as those of the School District; employees should always take adequate precautions to distinguish between their personal political views and those of the School District;
2. Interfering with colleague's exercise of political rights, citizenship rights, and responsibilities; and
3. Using School District privileges, School District resources, including but not limited to the District e-mail system or working time, to promote political candidates, for partisan political activities, or to influence the vote of a voter on any question or office.

It is the intent of this policy that political activities be narrowly defined to mean only "partisan political activities" and influencing the vote of a voter on any question or office. Partisan political activities would include the posting of political circulars or petitions, collection and/or solicitation of campaign funds, solicitations for campaign workers and other activities of a clearly partisan nature, including those activities relating to local, state, or federal elections.

New Hampshire law, RSA 659:44-a Electioneering by Public Employees provides that no public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties. No public employee shall use government property or equipment, including, but not limited to, e-mail systems, telephones, facsimile machines, vehicles, and computers, for electioneering. For the purposes of this law, "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office. A person violating this law may be guilty of a misdemeanor. A "public employee," with limited exceptions including those in a confidential relationship with the School Board, means any person employed by the District. This is a criminal offense. Allegations of violations of this law may be investigated and prosecuted by the Attorney General and law enforcement.

Nothing in this policy is to be construed as precluding discussion of contentious viewpoints, including discrimination, in current events or historical subjects, or conducting mock elections, debates, conventions, or similar simulated political activities, where such discussion or activity is primarily intended as part of a larger course of academic instruction.

District employees as public employees have a full right to publicly discuss and give opinions as an individual on their own time on all matters concerning any government entity and its policies. This policy recognizes public employee freedom of expression as set forth in RSA Chapter 98-E and other law and is intended to address only employee speech when the employee is engaged in his or her work as an employee and is speaking in furtherance of the employee's official duties.

Legal References:

U.S. Constitution, First Amendment

Garcetti et al v. Ceballos, 547 U.S. 410 (2006)

Snelling v. City of Claremont, 155 N.H. 674 (2007)

RSA 193:40, Prohibition on Teaching Discrimination

RSA 659:44-a, Electioneering by Public Employees

RSA Chapter 98-E, Public Employee Freedom of Expression

Proposed New Policy First Reading: May 18, 2022