

**T F The ban on ‘Red for Ed’ t-shirts during school hours is a violation of the First Amendment’s free speech provisions.**

Case law on First Amendment protections is unclear on this issue. The New Hanover County School Board has banned educators from wearing ‘Red for Ed’ t-shirts based upon local board policy File:6420. The policy prohibits political activities on school property or using school modes of communication for political purposes. The NCAE believes that this policy is overly broad, making it impossible for educators to know when speech is prohibited as political in nature. However, given uncertainty in how courts will review the issue, individuals choosing to wear the shirts must weigh their free speech interests against the risk of being charged with insubordination.

The NCAE believes that educators should wear professional attire unless casual clothing is more appropriate for a particular occasion or event. Use good judgment regarding your dress and refer to local dress code policies as needed.

**T F Educators can use their school email to discuss political or personal matters, because the email is private and belongs to the individual.**

False, school emails are not private and may be considered as a public record. Emails that are strictly personal in nature are not considered public records, even if made or received on a school computer or email. However, district policies on computer use may prohibit use of school email for personal correspondence.

**T F Educators can stuff mailboxes with NCAE, PENC, or political materials.**

False, unless express permission is granted (preferably in writing). N.C. Gen. Stat. §115C-335.9 mandates equal access for all education employee associations. Accordingly, if one group is granted access to physical or electronic mailboxes or permitted to attend new teacher or employee orientations, etc. then other associations must be allowed the same. Many schools have strict policies regarding who can stuff mailboxes and the content. It is important to follow school protocols regarding communications and to seek permission prior to stuffing mailboxes with unapproved materials.

**T F An administrator can discourage or prohibit school employees from joining the NCAE.**

False, according to N.C. Gen. Stat. §115C-335.9, a school may not discourage or prohibit an employee’s membership in any educational association.

**T F Educators can participate in social media campaigns and freely post their negative thoughts about colleagues, administrators, district employees, elected officials, students, etc. using their personal social media account without any consequence.**

False. The internet is not private; accordingly, social media sites are not private. Facebook statuses, twitter posts, and blogs can be accessed even after being erased. There is a risk that any comment placed on the internet could find its way to district officials or administration. N.C. Gen. Stat. §115C-325 details grounds for dismissal. Immorality even outside of school hours or on social media is grounds for termination.

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**T F Educators can strike in a display of discontent with education funding cuts, Teacher Assistant lay-offs, poor working conditions, the State's failure to adhere to the salary scale, etc.?**

False, there may be legal and employment consequences for participating in a strike or sick out (sick leave can only be taken in compliance with state and local board policies). North Carolina criminal statutes also prohibit public employees from participating in activities that constitute a strike. Violation of policies and laws could be used by school districts as a basis for disciplinary action, including dismissal. The criminal statute is provided below.

**\*§ 95-98.1. Strikes by public employees prohibited.**

Strikes by public employees are hereby declared illegal and against the public policy of this State. No person holding a position either full-or part-time by appointment or employment with the State of North Carolina or in any county, city, town or other political subdivision of the State of North Carolina, or in any agency of any of them, shall willfully participate in a strike by public employees. (1981, c. 958, s. 1.)

**§ 95-98.2. Strike defined.**

The word "strike" as used herein shall mean a cessation or deliberate slowing down of work by a combination of persons as a means of enforcing compliance with a demand upon the employer, but shall not include protected activity under Article 16 of this Chapter: Provided, however, that nothing herein shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of public employment so long as the same is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment. (1981, c. 958, s. 1.)

**§ 95-99. Penalty for violation of Article.** Any violation of the provisions of this Article is hereby declared to be a Class 1 misdemeanor.

**T F Educators can give students an assignment requiring them to write to local, state, or federal elected officials about an issue that is important to them, such as adequately funding public schools.**

True. N.C. Gen. Stat. §115C-81(g1) encourages civic engagement as part of the high school curriculum. The statute compels the State Board of Education to modify the high school social studies curriculum to include instruction in civic and citizenship education. The State Board curriculum is encouraged to include allowing students to write letters to elected officials, instruction on the importance of voting and voter registration, participating in the democratic process, etc.

Engaging students in political activities is permissible as long as the activity is non-partisan and not intended to influence their perspective toward any particular party, candidate, or policy. It is wise to seek input from administration prior to conducting the activity to clarify concerns and determine appropriateness.

**T F Candidates for political office or elected officials cannot be invited to speak to students in classrooms or at school sponsored events.**

False. Candidates and elected officials may be invited to speak to students if the speech is a legitimate part of the regular instructional program, and prior approval is granted (preferably in writing). The purpose should not be to influence partisanship.

**T F Public high schools must have voter registration forms readily available to students.**

§ 163-82.23. Voter registration at public high schools. Every public high school shall make available to its students and others who are eligible to register and preregister to vote the application forms described in G.S. 163-82.3, and shall keep a sufficient supply of the forms so that they are always available. A local board of education may, but is not required to, designate high school employees to assist in completing the forms. Only employees who volunteer for this duty may be designated by boards of education. (1975, c. 234, s. 1; 1977, c. 626, s. 1; 1983, c. 588, ss. 2, 3; c. 707; 1991 (Reg. Sess., 1992), c. 973, ss. 1, 2; c. 1044, s. 19(b); 1993, c. 74, s. 2; 1993 (Reg. Sess., 1994), c. 762, s. 2; 2009-541, s. 15 (a).)

**T F Educators can coordinate a voter registration drive during lunch at school?**

True, with permission (preferably in writing). Voter registration drives may be conducted on school grounds during or after school hours. Voter registration drives must be non-partisan. The North Carolina State Board of Elections website states that any person, group, organization, committee, campaign, political party, employer, or any other entity may conduct a voter registration drive. There are no license or training requirements. The determining factor is approval from administration and or the district to conduct the drive during school hours, in a particular location, at a specific time so that the drive is not disruptive to the learning environment.

*Please contact NCAE Legal with any specific questions or concerns.*

*November, 2013*

