

## CLARK COUNTY SCHOOL DISTRICT REGULATION

**NEW**

R-4392

### EMPLOYEE FREEDOM OF SPEECH

The Clark County School District supports all employees' right to freedom of speech but must balance the interests of an employee, as a private citizen, in commenting upon matters of public concern and the interest of the District, as an employer, in promoting the efficiency of the public services it performs through its employees. The District is intent on providing a respectful learning and working environment. Therefore, the District must ensure that the exercise of free speech by employees does not interfere with the District's educational mission and operation or the rights of others.

- I. Freedom of speech refers to a person's right to express ideas, regardless of the medium used. The term includes, but is not limited to, the spoken word, clothing, gestures, images and video, and posts to social media.
- II. District employees are free to speak as private citizens regarding public concerns.
  - A. However, when employees engage in speech as District employees, they are not speaking as private citizens, and the speech is not protected by the constitutional right to freedom of speech.
    1. Any speech made during work, while performing work for the District, or while engaged in any work-related activity is not made as a private citizen.
    2. If employees identify themselves as a District employee while engaging in the speech, the employees are not speaking as a private citizen.
    3. Personal social network and social media accounts must be kept separate from work-related accounts and identities to preserve the status of a private citizen. This separation may be relevant in determining whether the employee is speaking as a private citizen.
  - B. Also, when District employees engage in speech that arises directly from their work, the speech is not protected by the constitutional right to freedom of speech.
    1. Speech is considered to arise from an employee's work when the speech concerns a subject matter that primarily involves the employee's job or duties.

2. Therefore, although public education is a matter of public concern, specific issues, concerns, or grievances regarding a District employee's work are not considered matters of public concern.

C. Finally, certain job positions are subject to other laws that restrict the employee's speech rights. For example, Vegas PBS news and public affairs content producers are subject to a specific federal law that restricts their speech rights. Employees are therefore advised to consult with their supervisors to determine whether their particular job position is subject to any law that restricts their freedom of speech.

III. Freedom of speech may not be used to engage in harassment, sexual harassment, discrimination, bullying, cyber-bullying, or the intimidation of another person. These types of speech are not protected by the constitutional right to freedom of speech and may subject the speaker to disciplinary action.

IV. Even if a District employee speaks as a private citizen regarding a public concern, the District may limit or prohibit speech by an employee if the District can demonstrate that:

A. The speech materially and substantially interferes with school activities, the staff member's ability to perform assigned duties, or the rights of other staff or students;

B. The speech does or is likely to create substantial interference to the educational mission and/or operation of the District; or

C. The speech violates a District policy or regulation or a state or federal law or regulation. This includes case law defining the categories of unprotected speech (i.e., speech that is vulgar, obscene, defamatory, a true threat, promotes illegal substances).

Legal Reference:

Review Responsibility: Human Resources Division

Adopted: