

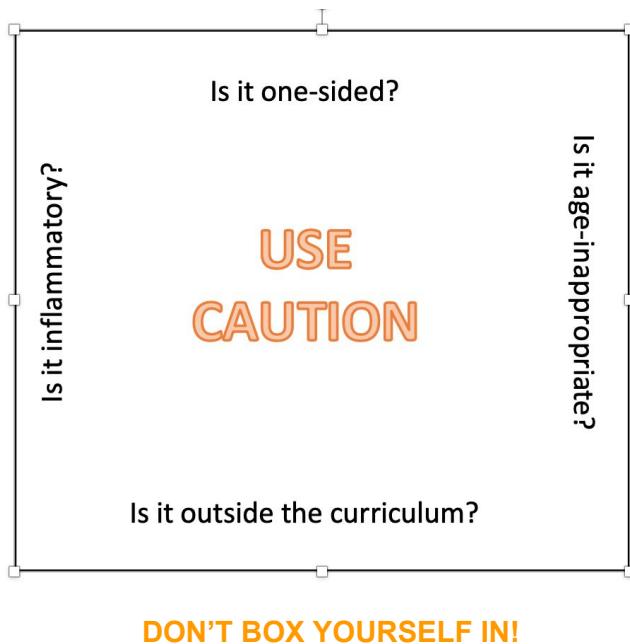
4 Things You Can't Say in the K-12 Classroom

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In 1969, the U.S. Supreme Court told the nation that “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” But there are some limitations on what a K-12 teacher can say in class.

Teachers work hard to meet students where they are, and to handle relevant topics while also maintaining student interest. However, with today’s “callout culture” and universal cell phone video availability, many classroom teachers are fearful of saying the “wrong” thing, being taken out of context, and risking their jobs over an offhand or ill-considered remark or discussion diversion.

With this in mind, here are some guidelines to help you steer clear of speech that might land you in hot water with your employer. These 4 “rules” are based on a scholarly review of cases where teachers did face legal trouble for classroom speech. If you’re not sure what you can say in class, ask yourself these 4 questions before doing so:



Is it one-sided? Instruction should be **EVEN-HANDED**.

Teachers have unique access to other citizens’ minor children and must not be perceived as using their position of authority to promote their own personal views on controversial issues or sensitive topics. Students are required by law to attend school and parents are compelled to send them there, making students in school a captive audience.

In order to maintain the public's trust in the school system, students must be protected from abuse of the authority over them. This includes avoiding giving the impression of delivering biased instruction with the intent of influencing them towards a teacher's preferred viewpoint.

According to educational legal researchers Maxwell, McDonough, and Waddington, avoiding perceived abuse of authority entails "encouraging students to consider several competing viewpoints, treating students who adhere to views one disagrees with respectfully, and generally conducting oneself in a way in class that models honest intellectual inquiry." (p. 200.) Professional teachers are rightfully expected to be "honest brokers" in presenting information even-handedly.

TIP: Consulting reputable, neutral, independent, and varied sources is important to find and present accurate, opposing views.

Is it age-inappropriate? Instruction should be **AGE-APPROPRIATE**.

The school system has a duty to ensure that young people are not exposed to "inappropriate" content at school, including material that a pupil could reasonably be expected to find traumatizing given their age or developmental level. Professional teachers are expected to exercise pedagogical appropriateness.

Failing to respect this principle could likely lead to a "poisoned" school environment—meaning that parents would reasonably be reluctant to entrust their children to the atmosphere and authority of the school, and children would be uncomfortable about attending.

An example of material that would be inconsistent with age-appropriateness would be showing historical footage of corpse disposal at Nazi death camps to children in elementary school. Showing "R-rated" movie scenes in a class with underage students can mean trouble as well. (Many K-12 schools will only allow PG or PG-13 film use, regardless of students' ages.)

TIP: Professional discretion, experience, and consultation with peers and administrators will help guide teachers in this area.

Is it outside the curriculum? Instruction should be **ALIGNED** with the official curriculum.

In public schools, the scope of the curriculum and many of the materials are decided democratically; teachers are hired to cover this content and meet certain standards while doing so. A teacher who deviates from the official curriculum and their school's adopted learning standards is taking a risk.

If parents or citizens decide to review the official curriculum, they have a reasonable right to expect that when students are sent to school, this is what is going to be covered in class. It is an

issue of institutional transparency. Classroom lessons and discussions that are clearly aligned with the official school curriculum are unlikely to be successfully challenged.

TIP: The more closely aligned your instruction is to the official school curriculum requirements, the more solid your standing if you are ever questioned.

Is it inflammatory? Instruction should not be **INFLAMMATORY** or disruptive to learning.

The school has an interest in maintaining an orderly environment conducive to learning. Therefore, it is reasonable to ask teachers to avoid making comments, dealing with topics, or using material that could foreseeably cause significant disruption to the normal operation of the school.

This principle involves exercising discretion and judgment and having a sense of your audience's maturity level and their likely response to certain types of material. Teachers can legitimately be expected to avoid broaching subject matter that, at a particular time or place, is reasonably likely to cause a significant disruption to normal school activities.

According to Maxwell, McDonough, and Waddington, "teachers have to distinguish between teachable moments which may ruffle feathers and interventions which may precipitate a full-blown crisis of public confidence. In addition to requiring a certain kind of pedagogical tactfulness, it also necessarily draws on local knowledge which attunes the teacher to which topics or material cross the line between controversial and inflammatory." (p. 202.) Examples that might fail this test would be graphic violence or sexuality, or a story of intense, immediate local concern or dispute.

TIP: Here, again, professional discretion will help you to steer clear of obvious pitfalls while the ongoing admonition to continually monitor and adjust according to classroom reactions can help you to recover if you happen to strike an unexpected nerve. Some responses can't be predicted, and the only thing you can do is respond calmly and shift gears or redirect the discussion.

To sum up, teaching school is somewhat of a performance art, in which teachers are expected to respond quickly to an ever-shifting range of incoming demands. Experience and familiarity with the students and their parents will help you make wise choices.. If you're ever in class—on the spot—wondering if you should bring up a delicate topic, ***if it's not in the official school curriculum, is not age appropriate, or could be considered inflammatory or one-sided:*** you might be stepping past the guardrails and should exercise caution.

Here's an acronym to help you quickly remember how to decide: **Always Inspect Every Angle** (or every **Apple**.) This stands for **A**ge appropriate, (not) **I**nflammatory, **E**ven-handed, and **A**ligned.

Beyond these limits, considerable space remains for teacher autonomy. It is legitimate to raise a sensitive or pressing topic with students in class as long as it is done in a way that respects these guiding principles.

Other things to keep in mind:

You have different speech rights as a hired employee than you do as a private citizen. You are generally considered to speak for the school district when you are in your classroom. "Speech" extends to classroom decorations, signs, posters, and statement clothing (such as pins or buttons.) According to the ruling in *Garcetti v. Ceballos* (2006), K-12 teachers' speech is regarded as the expression of a public employee pursuant to official duties. Hence, "curricular" speech is regarded as "hired speech," not entitled to protection by the First Amendment.

The law on teachers' speech on social media is evolving and, in some cases, conflicting. It is generally possible, though, to be disciplined or fired by your school for something you say outside of school on social media. This is particularly true if you use social media to comment publicly about your students or your school, or if you use it to engage in what could be considered conduct impairing your ability to function as a teacher. Your social media comments could be considered to reflect on your professionalism as a teacher or as an example of how you "treat" your class. It is important to respect student privacy online. Your school may be able to demand access to your personal social media account. Some schools (especially private) also have morality clauses in their contracts, and your online speech could be used as evidence of breach of that.

Generally speaking, something that happens one time in class is less likely to be highly problematic than something that happens consistently and repeatedly. A teacher who shares a strong opinion once will probably be viewed differently than someone who appears to have a personal ax to grind in every class.

Public schools must accept students from all kinds of backgrounds, whereas some private schools may restrict access and select their student body. In both cases, retaining confidence in the enterprise may be undermined by failure to respect the standards of the governing body of the school system, such as the School Board, Advisory Council, or the Board of Trustees. The school board has discretion over hiring and disciplinary matters for public school teachers, and they are elected democratically, reflecting local community standards. What is acceptable in one community may not be in another nearby district. Knowing your community well will help you make sound determinations of the boundaries of your speech.





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