

N.D.A.G. Letter to Robinson (Feb. 10, 1992)

February 10, 1992

Honorable Larry Robinson
State Senator
District 24
3584 Sheyenne Circle
Valley City, ND 58072

Dear Senator Robinson:

Thank you for your October 4, 1991, letter inquiring whether it is permissible for public school teachers to wear political buttons while on duty in the classroom. Particularly, you ask whether teachers may wear buttons promoting the retention of the statutory changes reflected in House Bill 1593 concerning final offer arbitration while on duty. I apologize for the delay in responding.

A teacher is a public employee.

No public employee shall engage in political activities while on duty or in uniform. Although nothing in this section shall prevent any such employee from becoming or continuing to be a member or officer of a political club or organization, from attendance at a political meeting, from contributing to or otherwise supporting candidates of his choice, from enjoying entire freedom from all interference in casting his vote or favoring his candidates, or from seeking or accepting election or appointment to public office, the governing body of any political subdivision may adopt appropriate ordinances prohibiting public employees from engaging in political activities while such employees are on duty or in uniform.

N.D.C.C. § 44-08-19. Political activities include:

[A]ny form of campaigning or electioneering, such as attending or arranging for political meetings, transporting candidates or workers engaged in campaigning or electioneering, distributing campaign literature, political guide cards, and placards, soliciting or canvassing for campaign funds, transporting electors to the polls on election day, and any other form of political work usually and ordinarily engaged in by state officers and employees during primary and general election campaigns.

N.D.C.C. § 39-01-04 (emphasis supplied).

It is my opinion wearing a button which indicates support or opposition to an initiated measure is not political activity under N.D.C.C. § 39-01-04.

The Department of Public Instruction has adopted an educators code of ethics. That code includes limitations on teacher's political activities in the classroom.

In fulfilling [the] obligation to the community, the educator shall: . . . Assume full political and citizenship responsibilities, but refrain from exploiting the institutional privileges of one's professional position to promote political candidates or partisan activities.

N.D. Admin. Code § 67-03-01-04(3). Whether wearing a political button supporting or opposing a specific initiated measure is a violation of this regulation is a question of fact which is beyond the scope of this office's responsibilities. Further, individual school boards may have regulations regarding wearing political buttons in the classroom. Whether a teacher would be in violation of those regulations by wearing a button supporting or opposing an initiated measure is again a question of fact, which must be determined by the appropriate fact finder.

I trust this responds to your inquiry.

Sincerely,

Nicholas J. Spaeth

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