

# NEA Academic Freedom Webinar Handout

February 23, 2026

## Proposed Model Bill Language on Academic Freedom

For educators at both the K-12 and higher education level, two types of protection are needed – one that protects on-duty speech and conduct, and the other for off-duty speech and conduct.

The first step in determining appropriate language is to examine current state law to determine what protections currently exist. At the K-12 level, protections are usually provided by state tenure laws that shield employees from adverse employment actions for good-faith compliance with established standards or for lawful conduct that does not affect their work performance. At the higher education level, tenure protections – often set by the institution's policy – provide similar but stronger protections. In addition, some states require by statute that higher education institutions adopt policies on academic freedom, but do not specify the content of those policies, providing a procedural avenue for securing protection, but no guarantee as to the substance of that protection.

At the K-12 level, one potential approach would be to protect educators from adverse employment actions for providing instruction, selecting curriculum, or offering or developing educational programming that they believe in good faith is aligned with relevant state standards and accepted teaching standards as reflected in prior instructional practice. Language along these lines could read as follows:

*No teacher or other school employee may be dismissed, demoted, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for providing instruction, selecting curriculum, or offering or developing educational programming that they believe in good faith is aligned with relevant state standards and accepted teaching standards. Such accepted teaching standards shall include the teacher's own prior instructional practice as well as that of other teachers instructing similar classes.*

At both the K-12 and higher education level, the off-duty conduct of educators could be protected by way of language along the following lines.

*No teacher or other school employee, or employee of a higher education institution, may be dismissed, demoted, suspended, disciplined, reassigned, transferred, or otherwise retaliated against for their lawful off-duty speech or conduct unless their employer shows that the speech or conduct actually did, and was reasonably likely to, substantially disrupt their ability to provide instruction or otherwise perform their regular job duties.*

This language would both place the burden on the employer to prove disruption and require that the employer show that the disruption was substantial and that it was both reasonably likely to, and in fact did, disrupt student instruction in some way. Specifying that the locus of disruption must be the student's instruction, rather than the institution's operations, should help guard against employers targeting employees based on complaints from third parties that may be disruptive to school operations generally but do not disrupt student instruction.

A longer variant on protections for both on and off-duty speech and conduct at the K-12 and higher education level would be something like the following:

- A. When employees of schools or higher education institutions speak, write, create, perform, or associate off duty, and the circumstances indicate that the employee is not speaking for their employer, their speech and association is protected from discipline or censorship.
- B. So that employees of schools or higher education institutions can effectively teach students to engage, analyze, and discuss the required curriculum, educators shall be able to freely engage in dialogue with students about the subject matters which they are assigned to teach, so long as the discussion and information shared is educationally relevant and assists students in engaging with the subject.
  - (1) Employees shall be guaranteed full freedom in classroom presentations and discussions and in their scholarly research, even those that introduce politically, religiously, or otherwise controversial materials, so long as the materials are educationally relevant and assist students in engaging with the subject.
  - (2) Employees shall be guaranteed full freedom to support students in the exercise of their legal rights, including their right to a learning environment with historically and scientifically accurate information; instructing students in a manner consistent with state learning standards; and using instructional materials that are culturally and experientially representative.
  - (3) Employees may share their personal opinions on all matters relevant to course content, provided they make clear that they are voicing their personal views and not those of their employer.
  - (4) No employee shall be prevented from wearing or displaying identification or symbolism that expresses their membership in the association, religious orders, political systems, or sympathy with social causes or traditions.
  - (5) No employee shall be prevented from using preferred pronouns or names in reference to themselves, colleagues, or students so as to be consistent with that person's self-identified gender.
- C. Employees of local education agencies and higher education institutions, because of their education and their institutional knowledge, play an indispensable role as independent participants in internal decision making. By virtue of this role, they are entitled to comment on or criticize institutional policies or decisions, either individually or through an employee organization and may not be disciplined or retaliated against for commentary and participation in good faith in such decisions.
- D. No local education agency or higher education institution shall condition hiring, reappointment, promotion, or retention of an employee on the employee's pledging allegiance to, or making a statement of personal support for or opposition to any political ideology or movement, including a pledge or statement regarding diversity, equity, inclusion, patriotism, or related topics, nor shall any local education agency request or require any such pledge or statement from any applicant or employee.
- E. An employee's exercise of the rights established under Sections (a) - (d) above cannot play a substantial part in any decision of a local education agency or a higher education institution to

dismiss, demote, suspend, discipline, reassign, transfer, or otherwise retaliate against an employee of that agency.

- F. A person claiming to be aggrieved by such a practice may bring a civil action for damages in any court of competent jurisdiction and may sue for all wages and benefits that would have been due to them up to the date of judgment had the discriminatory or unfair employment practice not occurred.
- G. If a public institution of higher education receives a pledge or statement describing a commitment to any particular political ideology or movement, including a pledge or statement regarding diversity, equity, inclusion, patriotism, or related topics, it may not grant or deny admission or benefits to a student, or hiring, reappointment, or promotion to a faculty member, on the basis of the viewpoints expressed in the pledge or statement.
- H. Nothing in this Act prohibits an institution from requiring a student, professor, or employee to comply with federal or state law, including anti-discrimination laws, or from taking action against a student, professor, or employee for violations of federal or state law.
- I. Nothing in this Act shall be construed to limit or restrict the academic freedom of faculty or to prevent faculty members from teaching, researching, or writing publications about diversity, equity, inclusion, patriotism, or other topics.
- J. Nothing in this Act prohibits an institution from considering, in good faith, a candidate's scholarship, teaching, or subject-matter expertise in their given academic field.
- K. Each public institution of higher education in the state shall post and make publicly available all training materials used for students, faculty, and staff, on all matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex, or bias, and all of its policies and guidance on these issues, on its website.
- L. A person whose rights were violated through a violation of this act may bring an action against a public institution of higher education, and its agents acting within their official capacities, in a state or federal court of competent jurisdiction to receive declaratory relief or enjoin a violation of this Act. If a court finds a violation of this act, the court shall provide a prevailing plaintiff appropriate equitable remedies, and award damages, reasonable court costs, and attorney's fees.
- M. The Attorney General may file suit to enjoin a policy or practice prohibited by Section A or Section B.
- N. If an institution, or any of its employees acting in their official capacities, are found by a court or the institution to have violated this Act, the institution may take disciplinary action against the responsible employees in accordance with the institution's policies and procedures.
- O. In addition to any relief under Sections L and M, the [State Fiscal Officer] shall impose an administrative penalty of \$100,000 against a State Education Institution for each violation of this Act. The penalty shall be deposited in the [State Treasury] and shall be allocated to each

State Education Institution that is not currently in violation of this Act and has not violated this Act within the preceding two fiscal years.

P. Any action brought pursuant to Section L must be brought within 1 year of the latest date the Act is alleged to have been violated.

Q. If any provision of this chapter, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this chapter and the application of its provisions to any other person or circumstance shall not be affected thereby.

## Affiliate Model Contract Language

Contract language concerning academic freedom usually focuses on the amount of flexibility an educator has to teach and discuss certain subject matter. One of the more prevalent approaches is to develop language that specifies that the teacher has the freedom to present relevant subject material that is appropriate for the students.

The following are NEA affiliate model language examples showing these and other approaches:

### 1. Idaho

<b>DOCUMENT TYPE</b>	MODEL LANGUAGE
<b>GENERAL TOPIC</b>	EMPLOYEE RIGHTS
<b>SPECIFIC TOPIC</b>	ACADEMIC FREEDOM

#### **5.2 Classroom Presentations and Discussion**

Employees shall be guaranteed full freedom in classroom presentations and discussions may introduce politically, religiously or otherwise controversial materials, provided only that said materials are relevant to course content.

#### **5.3 Personal Opinion**

Employees shall be guaranteed full freedom in expressing personal opinions on all matters relevant to course content, provided, however, that where they do so they shall make every effort to indicate that they are speaking personally and not on behalf of the school, its administration, or the Board.

#### **5.4 Censorship**

Employees shall not be censored or restrained in the performance of their teaching functions on their teaching functions on the ground that the material discussed and/or opinions expressed are distasteful or embarrassing to those in authority in the school system or detrimental to school system public relations.

#### **5.5 Alteration of Grades**

Grades given a student by an employee shall be final and not subject to alteration unless fraud, bad faith, incompetency or mistake can be shown on the part of said employee.

### **5.6 Personal Expression**

No teacher shall be prevented from wearing pins or other identification or symbolism in expression of membership in the association, religious orders, political systems, or sympathy with social causes or traditions.

### **5.7 Monitoring and Observation of Teacher**

All monitoring or observation of the work performance of a teacher shall be conducted openly and with full knowledge of the teacher. The use of eavesdropping, public address, audio systems, and similar surveillance devices shall be strictly prohibited.

## **2. North Dakota**

<b>DOCUMENT TYPE</b>	MODEL AGREEMENT
<b>GENERAL TOPIC</b>	INSTRUCTION AND CURRICULUM
<b>SPECIFIC TOPIC</b>	ACADEMIC FREEDOM

### **Article XVI - Academic Freedom**

#### **16.1 Guaranty of Academic Freedom**

It is the policy of the Board to educate young people in democratic tradition, to foster recognition of individual freedom and social responsibility, and to inspire meaningful awareness of and respect for the Constitution and the Bill of Rights. It is recognized that these democratic values can be best transmitted in an atmosphere that is free from censorship and artificial restraints upon free inquiry and learning, and in which academic freedom for the teacher and the student is encouraged.

Academic freedom is essential to the fulfillment of the educational purposes of North Dakota schools. Therefore, teachers have the right to protection from any censorship or restraint that might interfere with their obligation to pursue truth.

Freedom of individual expression shall be encouraged and guaranteed by the Board to all its teachers.

It is mutually recognized that freedom carries with it responsibility; academic freedom also carries with it academic responsibility which is determined by the basic ideals, goals, and institutions of the local community. Discussion and analysis of controversial issues should be conducted within the framework of the fundamental values of the community as they are expressed in the educational philosophy and objectives of the Board. Within the preceding frame of reference and as it pertains to the course to which a teacher is assigned, academic freedom in the schools is defined as:

- a. The right to teach and learn about controversial issues which have economic, political, scientific, or social significance.

- b. The right to use materials that are relevant to the levels of ability and maturity of the students and to the purpose of the school system.
- c. The right to maintain a classroom environment that is conducive to the free exchange and examination of ideas that have economic, political, scientific or social significance.
- d. The right of teachers to participate fully in the public affairs of the community.
- e. The right of students to hold divergent ideas as long as the expression of their dissent is done within the guidelines of debate and discussion which are generally accepted by teachers in a normal classroom environment.
- f. The right of teachers to a free expression of conscience as private citizens with the responsibility of presenting a balanced view relating to controversial issues.

### **16.2 Guidelines for Selection of Controversial Issues**

Guidelines for selection of controversial issues to be taught in the classroom are:

- a. The issue should be suitable for students of the maturity and background represented in the class.
- b. The issue should be related to the course content and help achieve course objectives.
- c. The issue should provide the student an opportunity to study controversial issues that have political, economic, or social significance about which they will begin to have an opinion.
- d. The issue should provide the student competent instruction balancing the various and/or conflicting points of view in an atmosphere free from bias and prejudice.
- e. The issue should provide the students their right to form, identify and express their own opinions on controversial issues as long as a balanced presentation is made on conflicting positions.

### **16.3 Selection of Instructional Materials**

Instructional materials shall be selected and made available to interested persons according to the following guidelines:

- a. Basic textbooks for each course and/or grade level shall be selected by the teacher in consultation with the Board or its representatives.
- b. Instructional materials supportive to the basic textbooks for each course and/or grade level shall be selected by the appropriate course and/or grade level teachers and approved by the Board.
- c. Additional instructional materials may be selected by individual teachers for occasional use in the classroom. Such materials are to be relevant to the levels of ability and maturity of the students, to the content of the course, and to the purpose of the school system.

### **16.4 Review of Instructional Materials**

Persons wishing to review the materials listed above may do so according to the following conditions:

- a. Basic textbooks and other instructional materials supportive to the basic textbooks can be reviewed in the administrative offices during normal office hours.
- b. Additional instructional materials selected by individual teachers may be reviewed in the school building in which the individual teacher is assigned to teach so long as the reviewing does not interfere with the teacher's ability to perform his/her regular duties and so long as the reviewing process does not interfere with the teacher's ability to use the instructional material being requested for review.

### **16.5 Reconsideration of Selected Instructional Materials**

Any parent of a student or other person residing within the boundaries of the school district may request that the use of basic textbooks and other instructional materials being reconsidered according to the following procedures:

- a. The parent of a student having concerns about the continued use of basic textbooks and other instructional materials shall first discuss her/his concerns with the classroom teacher of the course and/or class in which the student is enrolled and in which the materials is being used. Other persons residing within the boundaries of the school district who have a concern about the use of basic textbooks and other instructional material shall discuss their concerns with a building principal of the level at which the material is being used. The principal will communicate that concern to the affected teacher(s).
- b. If the parent or other person is not satisfied after talking with the classroom teacher or building level principal, whichever is appropriate, the parent or other person may request that the continued use of the basic textbook or other material be reconsidered. To initiate such a request for reconsideration the parent or other person shall make a written request to the district superintendent.
- c. Upon receipt of the request for reconsideration the superintendent shall refer the same to the appropriate curriculum committee. The curriculum committee shall have thirty (30) school days to complete its reconsideration review and to make a written recommendation(s) to the Board. If the Board does not agree with the recommendation(s) of the curriculum committee, the Board shall return to the committee the committee recommendation(s) and a written statement explaining the Board's reason for rejecting the committee's recommendation(s). The curriculum committee shall have two (2) weeks to reconsider its initial recommendation(s) as well as the Board's written reasons for rejection of the committee's initial recommendation(s) to the Board. The Board shall make a decision concerning the request for reconsideration but in its disposition of the request for reconsideration, the Board shall not violate this Agreement or the laws of North Dakota.
- d. Any disputed materials shall remain in use in the school system until the Board shall take formal specific action to remove the materials.
- e. In cases where the parent of a student requests in writing that the student not make use of a basic textbook, other instructional material supportive of the basic textbook or additional instruction materials selected by individual teachers for occasional use, the student will be given the opportunity to make use of alternative instructional material according to the direction of the classroom teacher of the class and/or course in which the student is enrolled.

### 3. Oregon

<b>DOCUMENT TYPE</b>	MODEL LANGUAGE
<b>GENERAL TOPIC</b>	EMPLOYEE RIGHTS
<b>SPECIFIC TOPIC</b>	ACADEMIC FREEDOM

**ARTICLE 13**  
**INSTRUCTION**

**A. Academic Freedom (Alternative 1: Licensed)**

1. Academic freedom shall be guaranteed to employees, and no special limitations shall be placed upon study, investigation, presenting and interpreting facts and ideas concerning human society, the physical and biological world and other branches of learning subject to accepted standards of professional responsibility. The right to academic freedom herein established shall include the right to support or oppose political causes and issues outside of the normal classroom activities.
2. The Board and the Association recognize that the ability of pupils to progress and mature academically is a combined result of school, home, economic and social environment and that employees alone cannot be held accountable for aspects of the academic achievement of the pupil in the classroom. Test results of academic progress of students shall not be used in any way as evaluative of the quality of an employee's service or fitness for retention.
3. As a vital component of academic freedom, employees shall be solely responsible for decisions regarding the methods and materials used for the instruction of students except where such material and methods are controlled by state or federal mandate.
4. The employer and the Association agree that academic freedom is essential to the fulfillment of the purposes of the District and acknowledge the fundamental need to protect employees from censorship or restraint that might interfere with their obligation in the performance of their professional duties.
5. Accordingly, employees shall be guaranteed full freedom in classroom presentations and discussions and may introduce issues that have economic, political, scientific or social significance, or otherwise controversial material relevant to course content.
6. No mechanical or electronic device shall be installed in any classroom or brought in on a temporary basis, which would allow a person to be able to listen or record the procedures in any class.

<b>DOCUMENT TYPE</b>	MODEL LANGUAGE
<b>GENERAL TOPIC</b>	TECHNOLOGY
<b>SPECIFIC TOPIC</b>	INSTRUCTIONAL TECHNOLOGY

- a. The classroom teacher shall maintain academic freedom rights with regards to selection of other supplemental material/technology provided that such material/technology is related to the District adopted curriculum and is age appropriate. The building administrator must approve any cost, above that already allocated for that classroom for instructional materials.
- b. Licensed employees who are requested and agree to develop/update/augment such material/technology and/or to train other employees, shall be provided release time or per diem pay based on actual hours worked to complete the task.

#### 4. Washington State

<b>DOCUMENT TYPE</b>	CONTRACT REFERENCE GUIDE
<b>GENERAL TOPIC</b>	EMPLOYEE RIGHTS
<b>SPECIFIC TOPIC</b>	ACADEMIC FREEDOM

#### Section 2 – Academic Freedom

- 2.3 As a vital component of academic freedom, teachers shall be solely responsible for decisions regarding the methods and materials used for the instruction of students.
- 2.4 The employer and the Association agree that academic freedom is essential to the fulfillment of the purposes of the District and acknowledge the fundamental need to protect employees from censorship or restraint which might interfere with their obligation in the performance of their professional duties.
- 2.5 Accordingly, employees shall be guaranteed full freedom in classroom presentations and discussions and may introduce issues which have economic, political, scientific or social significance, or otherwise controversial material relevant to course content.
- 2.6 No mechanical or electronic device shall be installed in any classroom or brought in on a temporary basis which would allow a person to be able to listen or record the procedures in any class.
- 2.7 All academic freedom provisions shall also apply to the negotiated instructional materials policy.

## Bargaining for Protections

### 1. Education Minnesota Model

- Educator responsibility for providing students with the opportunity to investigate various sides of the topics presented in their courses.
- Permission to select relevant materials and curriculum based on their professional judgement.
- Academic freedom implies that educator must teach with an understanding and respect for the individuality of each pupil & with a scrupulous regard for honesty and accuracy, without distortion or falsification.
- Culturally-responsive teaching practices are both responsible and necessary in classrooms for the welfare of all students and are protected under this agreement.

## **2. Colorado Education Association Model**

- Both parties acknowledge the fundamental need to protect teachers from any censorship or restraint, in order to ensure thoughtful discussion and intellectual inquiry in the classroom.
- No discipline due to teaching controversial topics, or expressing their opinions on those topics so long as they
  - present a balanced lesson consistent with recognized and accredited scholarship on the topic;
  - use materials which are relevant to the levels of ability and maturity of the students;
  - maintain a classroom environment which is conducive to the free exchange and examination of ideas.
- Right to fully participate in the political process.
- Right to publicly present opinions on matters of public concern or which have significant artistic value outside of work without discrimination, intimidation, or retaliation.