
LEGAL MEMO: **For Distribution To All Members of
Professional Educators of Tennessee**

FROM: **L.L.Crain, Esq.**

RE: **Teacher Free Speech and Literature
Distribution Rights**

DATE: **May 19, 2003**

This legal memorandum shall address the issue of whether a teacher may, consistent with her rights as afforded under the First Amendment of the United States Constitution and as protected by state statute, distribute PET information to a fellow teacher, or communicate such information in areas in the school which are designated as limited open forums for such free speech activity such as the faculty lounge.

In *Tinker v Des Moines Independent Community School Dist.*, 393 US 503, 21 L Ed 2d 731, 89 S Ct 733, (1969), the court noted that First Amendment rights of freedom of speech and expression, applied in light of the special characteristics of the school environment, are available to teachers, and neither teachers nor students shed such rights at the schoolhouse gate. *Accord, Perry Education Assn. v Perry Local Educators' Assn.*, 74 L Ed 2d 794, 103 S Ct 948 (1983)

It is entirely within the parameters set forth in these and other recent decisions for teachers to share information with their colleagues regarding their association with any professional organization while in the faculty lounge or other common gathering areas

The only legal restriction which the school board may place on this right to literature distribution is to assure that its distribution does not materially or substantially disrupt the educational setting or activities of the school. *Shanley v. Northeast Ind. Sch. Dist.* 462 F.2d 960, 969 (5th Cir. 1972).