

NEA ADVISORY

RESPONDING TO STUDENT WALKOUTS PROTESTING SCHOOL GUN VIOLENCE

Since the horrific shootings in Parkland, Florida, students across the country have launched an inspired movement to demand long overdue action on school safety and gun control. NEA, its affiliates, and members throughout Florida and the nation, support these calls to prevent further school massacres.

Questions have arisen about what educators can and cannot do to support the emerging student movement. This advisory addresses those questions.

1. What can educators legally do to support their students' demands for safe schools?

Educators can engage in off-the-clock political and community action to advocate for policies that will make our schools safer. Educators can, among other things, march, sign petitions, write letters, post statements of support on social media, and call and lobby their state, federal, and local legislators. When educators act as citizens speaking about matters of public concern such as school safety, they are protected by the First Amendment so long as their activities do not disrupt the workplace. Educators should therefore avoid raising specific workplace complaints about administrators, coworkers, or—especially—students. They should also avoid any suggestion that they are speaking in their official capacity or on behalf of the school or district.

NEA, along with the National Public Education Network, American Federation of Teachers, Moms Demand Action, Everytown for Gun Safety, Giffords: Courage to Fight Gun Violence, and other national organizations, are calling on communities to take action against gun violence on April 20th—the anniversary of the Columbine tragedy—to send a strong message to policy makers that #enoughisenough. Educators can plug into events and actions associated with that day of action. Educators and affiliates should also work with their local school districts to find educational and meaningful ways to allow students and educators to participate in that day of action.

Educators may also wish to discuss school safety and gun violence issues with their students. Unfortunately, there is no one-size-fits-all guidance here. Such discussions should be consistent with district guidelines on discussing these issues. Educators are more likely to be protected when such discussions are both age appropriate and instructionally relevant—and also when the educator herself enjoys tenure protections. Even then, and given that school safety and gun control issues may be considered “controversial,” educators should refer to their collective bargaining agreement and district policies, which may provide for academic freedom protections or protections to discuss controversial subject matters.

2. What can educators do to prepare for student walkouts?

Educators and local and state affiliates should engage with local districts to encourage districts to adopt plans about how to respond to student walkouts before the walkouts happen. Such plans should address educators' duties during student walkouts. Plans can also facilitate student protest activity in a safe and educational manner by, for example, providing time and space for student demonstrations, guaranteeing that neither students nor educators will be penalized for participating in a walkout.

3. Do educators have the legal right to engage in walkouts or other work stoppages to support their students?

No, unless the school administration or other legal agreement has authorized the walkout. Unauthorized educator walkouts or other work stoppages aimed at protesting a lack of governmental response to gun violence in our schools are not protected activities under either the First Amendment or state and local collective bargaining laws and agreements. Such actions may violate state and local laws and policies and could subject educators to discipline and even termination.

Local unions and affiliates should be particularly careful in endorsing or supporting educator walkouts. Such actions could subject the locals themselves to legal liability and, in some circumstances, could jeopardize exclusive representative status.

4. Can educators legally help students organize walkouts? Can educators legally participate in student-organized walkouts?

No, unless the school administration or other legal agreement has authorized the walkout. As a general matter, educators should not lead or assist in the organizing of walkouts. Leading or assisting such walkouts can lead to the same sort of discipline and legal liabilities that can arise by leading or participating in the walkouts.

5. What should educators do if or when their students walkout?

If students do walkout, educators can be put in a difficult spot. On the one hand, educators are not legally protected if they participate in the walkout, but on the other hand, educators may be uncomfortable with some or all of their students leaving class unsupervised. This is why school districts should develop clear protocols about how student walkouts should be handled before students walkout.

If the school district lacks such protocols, and an educator's students walk out, the educator should immediately inform administration and seek guidance as to how the walkout should be handled by the educator.