



*A Union of Professionals*

**“Speak up. Learn to talk clearly and forcefully in public. ... Be a nuisance where it counts, but don’t be a bore at any time. ... Do your part to inform and stimulate the public to join your action.” —Marjory Stoneman Douglas**

## **GUIDANCE ON EDUCATOR SUPPORT FOR STUDENT PROTESTS**

Across the nation, walkouts have been called by our young people in honor of those killed by gun violence and in protest against Congress’ and state legislatures’ alliances with the gun lobby. The following Q&A addresses questions that our members have asked regarding their students’ rights to free speech and to what extent they can support their students if they decide to engage in a walkout, or some other form of protest, while at school. Some school districts have already developed policies and procedures in anticipation of walkouts (see NYC example included below). Please refer to such policies for guidance on expectations of educators and school staff during the walkouts.

**Q: How can I support my students who want to participate in walkouts or other forms of civil disobedience?**

**A: As educators, we empower students to make decisions that are informed of their consequences. Find teachable moments. Discussing free speech and advocacy with students can help them evaluate the benefits and risks of engaging in civil disobedience. Most school districts maintain “time, place and manner” restrictions on student speech and truancy policies that would allow schools to lawfully discipline students for missing class because of a political protest. Discuss these policies with your students, as well as alternative, non-disruptive methods of protest that schools cannot legally impose punishment against.**

Second, you may also use your classroom as a forum in which students can engage in structured discussions about the subject of the protest. Discuss with school leadership how you and your colleagues should engage students on social issues of great import.

Third, working with your union, petition your school board to pass a resolution supporting student and staff participation in planned walkouts.

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The American Federation of Teachers is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

Randi Weingarten  
PRESIDENT

Loretta Johnson  
SECRETARY-TREASURER

Mary Cathryn Ricker  
EXECUTIVE VICE PRESIDENT

Fourth, educators may mitigate the academic consequences of an unexcused absence due to a walkout by not assigning work that cannot be made up (for example, a test) on the day that the protest is expected.

Fifth, you can engage in your own political advocacy supporting students' efforts while off duty. Educators may speak on matters of public concern, such as gun violence prevention, as private citizens so long as the speech does not affect their ability to perform the functions of their job.

**Q: I want to support my students' efforts to engage in political protest. Can I be disciplined for assisting my students in a walkout?**

**A: Yes.** As explained further below, school districts may enforce non-discriminatory policies that censor student speech if such speech is deemed disruptive to the school day or unlawful. School administrators may therefore discipline employees if they encourage students to violate lawful school policy, such as a prohibition on walkouts during classroom time. Educators can also be held accountable for failing to enforce school policy, such as not reporting unexcused absences. Nevertheless, the AFT stands by our members who support their students' First Amendment rights and the right to be free from violence. Please contact your local union immediately if you are disciplined for engaging in such action.

**Q: Can students be punished for engaging in political speech on public school campuses?**

**A: In most instances, no.** The First Amendment generally protects the rights of students to engage in political speech while at school. As the Supreme Court has noted, students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

The court, however, has also stated that in certain instances, the regulation of student speech does not infringe on students' free expression rights when in conflict with legitimate educational objectives of schools. In balancing pedagogical objectives against the free expression rights of students, the court held that school officials may censor student speech that is, or could be, materially and substantially disruptive to the school's operations OR speech that is unlawful (such as libel, obscenity or verbal assault). School districts therefore can maintain "time, place and manner" restrictions on when and where (and in some cases how) students exercise their free speech rights during the school day to prevent disruptions to the school day.

Nevertheless, censorship of speech must generally be content-neutral. Schools cannot target and punish the political views of students. For example, schools cannot prohibit students from distributing flyers that support gun regulation during class time if they allow the distribution of flyers of a non-political nature. Similarly, if the normal punishment for missing school without an excused absence is detention, schools cannot issue a harsher discipline, such as suspension, to students absent from school for political reasons.

**Q: Are walkouts specifically considered so disruptive that they lose First Amendment protections?**

**A:** It is uncertain. The Supreme Court has not decided this particular issue. Many school districts, though, in the wake of calls for student-led protests of gun violence have stated that walkouts will be considered disruptive and therefore will result in discipline. It is the AFT's position that engaging in peaceful walkouts and being absent from class for a short period of time does not create a substantial disturbance that warrants a loss of First Amendment protections.

Schools, however, may not have to demonstrate that such walkouts are in fact disruptive if the school already has a non-discriminatory truancy policy in effect that requires students to be at school except for an excused absence. Such truancy policies provide for the lawful discipline of a student who is absent from class for *any* unexcused reason, including the exercise of a First Amendment right.

**Q: Can I be disciplined for discussing the protests with my students?**

**A:** The answer to this question depends on whether such discussions in classrooms would fall within the orbit of the educator's academic freedom. Such protections may be granted given one's pedagogical responsibilities or by a union contract or school policy. An AP history or government teacher arguably could have greater academic freedom protections to have such discussions in comparison with his or her colleagues who teach non-civic-related subjects. Educators may still be held accountable if such conversations are considered inappropriate and not relevant to the school's educational objectives.

**SAMPLE: Notice to members from UFT President Michael Mulgrew, re: NYDOE policy on March 14 Walkouts**

**Dear Randi,**

**In response to the mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida, young people nationwide, including many New York City public school students, are planning to walk out of school for 17 minutes — one for every person killed — at 10 a.m. on Wednesday, March 14 to protest the U.S. Congress' inaction.**

**Many UFT members, proud that students are taking the lead, have asked the union about the day and their own roles. I wanted to share the recent guidance issued to principals by the city Department of Education.**

**Principals have been told that they should not stop students if they choose to participate in an action. The DOE guidance says students should not be disciplined for engaging in peaceful protest, but students are expected to continue to meet behavioral expectations and return to the school building after the action or walkout. The guidance says it is against DOE policy and conflicts of interest rules for DOE employees to participate, solicit participation, or lead students in the walkout in their official capacity. Each school has been instructed to design a plan by Monday and ask for volunteers among the staff to be assigned outside the building to ensure the safety of students during the activity.**

**The DOE guidance says that principals should communicate the plan and staff expectations to all school staff. Please ask your principal to tell you about your school's plan.**

**Thank you for everything you do.**

**Sincerely,**

**Michael Mulgrew  
UFT President**