

## MEMORANDUM

TO: School Superintendents and School Board Chairpersons

FROM: Frances Rabinowitz, CAPSS Executive Director  
Robert Rader, CAFE Executive Director  
Patrice McCarthy, Deputy Director and General Counsel

RE: Resources for Responding to Student Walkouts

DATE: March 5, 2018

School districts throughout Connecticut and the nation are facing the challenge of responding to possible student walkouts on March 14, 2018, and again on April 20, 2018. CAPSS and CAFE have been working with superintendents, school board members and others to provide support and assistance for such planning. In the following, we will briefly highlight our best thinking on this challenge and then provide links to some helpful resources.

### **I. PRACTICAL CONSIDERATIONS:**

While the challenges of planning an appropriate and effective response are significant, the underlying legal principles are clear: neither students nor staff have the right to engage in activities that disrupt the educational process, as the planned walkouts certainly would. The keys, therefore, to an appropriate response are:

- Good communication in advance with all stakeholders – students, staff, parents and community members, including notification of potential consequences of disruptive activity.
- Appreciation for the sincere concerns that underlie the planned walkouts and consideration of ways to give voice to those concerns without disruption.
- Acknowledging the value of student achievement on an important issue of public policy and using the opportunity to develop their skills in civil discourse.
- Consideration of the maturity of the students involved. Discussion at the high school level, for example, would likely be very different from discussion that day, if any, at the elementary level.
- Communication to and coordination with staff members (and their bargaining representatives) as to expectations and responsibilities.
- Awareness of and adherence to any applicable Board policies.
- Focus on the safety of students and others as the overarching concern.
- Awareness that any response may set precedent, including a demand for equal treatment of protests concerning other issues, even a counter-protest over Second Amendment rights.

With those thoughts in mind, we recommend that superintendents and school principals engage student leaders and the parent community in a discussion as to how best to direct the energy arising from a potential student walkout to activities that are jointly planned and implemented to (1) give voice to concerns over school safety, (2) minimize disruption of the educational process, and (3) maintain student safety. Depending on the level of anticipated student support for such a walkout, school districts may even want to schedule specific educational activities during the time of the planned walkout in an effort to maintain control of the event. Superintendents are also well-advised to communicate with their boards of education to keep them apprised of such plans.

Examples of such activities on March 14, the date of the first publicized walkout, would be a “walk-in” that day, a period of silence and reflection in classrooms from 10:00 a.m. to 10:17 a.m., an organized activity in the school auditorium starting at 10:00, such as a panel discussion about school safety, school climate and civility, moderated by students, or other activities in your schools.

In considering the challenges posed by the potential walkouts, we recognize that our various school communities in Connecticut will have different concerns and forces at work. Some view the planned protests as a problem to address while others may view them as an opportunity for promoting political action. Accordingly, we do not purport to specify how individual school districts should respond to this challenge. Rather, we offer this information as a resource for school officials in your planning for these anticipated walkouts in light of the circumstances that prevail in your community.

## **II. LEGAL CONSIDERATIONS:**

Legal considerations applicable to planned walkouts involve First Amendment principles, both as to the planned protests and as to the responses from others who do not share the views of the protesters. We recommend that you confer with the district’s legal counsel for specific answers to legal questions, but we offer the following general comments on the underlying legal principles.

- Students and teachers have a right of free expression on matters of public concern, including concerns over school safety. Permissible expression includes individual or group expression via flyers, buttons, T-shirts, social media posts, etc. as long as such expression is not disruptive of the educational process.
- Students and teachers do not have the right to engage in expressive activities that substantially disrupt or materially interfere with the educational process. A walkout by students and/or staff members at any time when educational activities are scheduled is per se disruptive of the educational process, and such actions can result in disciplinary action.
- School officials have the right to schedule educational activities as they deem appropriate. In discussing these matters with students and teachers, school

officials may wish to establish activities that will give voice to concerns over school safety without disrupting the educational process. By characterizing the activity as a school-sponsored activity, school officials retain control of the situation.

- By contrast, creating a “forum” for students or others to express their views can create the problem of viewpoint discrimination if speakers with contrary views are prevented from expressing themselves. Once a forum is created, school officials cannot discriminate between and among viewpoints, but rather they must be viewpoint neutral unless they reasonably forecast disruption. School officials must decide whether to treat the activity as their own or to establish a forum for expression, with the understanding that the latter approach presents the concomitant risk that others will either express a different view or claim viewpoint discrimination when they are not allowed to do so.

### **III. RESOURCES:**

Given that the planned student walkouts are being discussed throughout the country, national organizations have published helpful guidance to deal with the very real possibility that, unless their energy is successfully redirected, students will walk out of class on March 14 and/or on April 20. Helpful resources include those linked below:

- National School Boards Association, “[Navigating Student Walkouts & Mass Protests](#),” (comprehensive checklist of relevant considerations).
- Michigan School Boards Association, “[How to Approach Student Walkouts](#),” (practical guidance on dealing with threatened walkouts).
- Connecticut State Department of Education, Superintendents’ Digest, “Resources for addressing trauma, violence, and grief,” found at <http://portal.ct.gov/SDE/Digest/Superintendents-Digest> (general resources).

We hope that this information is helpful to you, and that March 14 and April 20 will be peaceful and safe days in your districts.