



School districts around the nation, including New York have been advised that there are at least three upcoming student walkouts and marches that will be held related to the tragedy that occurred at Marjory Stoneman Douglas high school in Parkland Florida in which 17 individuals were gunned down by a former student. Our understanding of the purported purpose of these walkouts and demonstrations is to protest gun violence in our nation and call upon our state and federal leaders to enact legislation which will serve to end the continuance of such violence. The dates and descriptions we have received of these demonstrations are as follows:

Wednesday, March 14, 2018.

A school walkout during school hours.

Hashtag = #Enough

The plan: Students are encouraged to walk out of school and remain out for 17 minutes in memory of the 17 victims in Parkland, Fla.

- This is billed as a "National School Walkout" and occasionally appears with the hashtag #NationalSchoolWalkout.
- It appears that organizers are using a platform and website used to organize the National Women's March – [www.actionnetwork.org](http://www.actionnetwork.org)
- On Twitter, look for @Women'sMarch and maybe @Women'sMarchY
- The logo/branding image is Women's March Youth Empower.

Saturday, March 24, 2018

A national march in Washington, D.C. Other local marches may pop up.

A related hashtag: #EndGunViolence

Apparent/possible associated Twitter handles: @Everytown, @AMarch4OurLives

This one pops up, too: @MomsDemandAction

Possible associated website or group: [EverytownForGunSafety](http://EverytownForGunSafety)

Friday, April 20, 2018

Another school walkout.

Coincides with the 19th anniversary of the Columbine school shootings.

The plan: Walk out of school at 10 a.m. Sit outside and peacefully protest. Unlike the earlier protest, which is to end after 17 minutes, this one is to continue until the end of the school day. A

related hashtag: #NationalSchoolWalkout

Twitter handle: @schoolwalkoutUS

Website: <http://nationalschoolwalkout.us/>

We have received inquiries related to what actions school districts might take in response to their students deciding to participate in these walkouts and marches. Included below we have outlined various issues surrounding this subject matter and considerations school districts would be well advised to focus upon. In addition, we also set forth suggestions for possible actions districts may take if they wish to show support for the concerns their students have related to school safety.

### **What are the parameters of student free speech rights?**

As a starting point, districts should remember that the Supreme Court, in its landmark decision of *Tinker v. DeMoines*, determined that students do indeed have constitutional free speech rights to personally express themselves. However, the nation's high court ruled that such protections do not extend to speech which would materially and substantially disrupt the educational process of the school environment or that would impinge on the rights of others. Since 1969, when the *Tinker* case was decided, there has been a great deal of litigation surrounding the question of what exactly constitutes "material and substantial" disruption which would authorize school districts to exercise their authority to place controls over student initiated speech. However, to the extent to which there is a large number of students in any given school building who plan to walk out of school during any or all of the above planned activities, it certainly constitutes a material and substantial disruption since the educational process would be fundamentally affected. In such cases, school districts would be best advised to review and follow their existing policies, including codes of conduct in this area.

### **What are the consequences for not enforcing school district policies on students who walk out?**

We have been advised that some school districts are considering the option of not imposing any sanctions upon students who choose to participate in such planned activities. School districts who are considering this option, however, would be well advised to consider that other students in the future may be able to successfully argue that they too are entitled to be excused from the enforcement of school district policies, including attendance policies, if they choose to participate in some other act of civil disobedience. In short, school districts must apply their policies in a neutral manner and should not risk being charged with engaging in acts of viewpoint discrimination related to their imposing discipline on students in the future who may wish to support some other cause that might not be regarded as being "appropriate" by the school district.

Notwithstanding what actions, if any, school districts may choose to take in response to students who choose to walk out of school, it would be prudent for districts to consult with local and state law enforcement officials as to the best manner in which the safety of such students may be protected by school and law enforcement officials. Indeed, school districts would be well advised to ensure that there is a well-articulated plan for staff to follow during such occurrences to ensure that students are properly supervised.

### **Can the planned walkouts be supported by school districts?**

Some districts may wish to provide support to their students as they engage in the above mentioned walkout activities, either because they agree with the students' underlying message or because they do not wish to impose disciplinary consequences against the students who walk out. However, it would be ill advised for a school district to provide such support, based upon the well-established principle that school districts have no express authority to engage in political activities. This would be particularly the case where, as here, the school district is not in a position to control the agenda based upon it being directed by outside parties. Accordingly, school district sponsorship of such activities would not appear to be a viable option.

### **If school districts wish to show their support for the concern their students have related to school safety, what might such districts consider doing?**

School districts might wish to consider hosting an assembly for students and/or a community town hall meeting to discuss the shared concern that all have for providing students and faculty with

safe schools. Districts may wish to consider sponsoring a dialogue in which all such solutions can be discussed in a civil and productive manner such as a discussion of whether we need to secure better gun control; provide individuals with greater access to mental health practitioners; and/or arm school officials, as examples. In hosting such a dialogue, districts should make it clear that ultimately some answers to the question of what changes are needed lie beyond their purview but, rather, with our legislative and executive leaders. However, it would appear to be most appropriate to express that school safety has been and always will be of paramount concern to all public officers and officials who are charged with ensuring the safety of our students. Indeed, there may be no better time to make sure our communities understand that acts of school violence are unacceptable and that we all take very seriously our charge to protect the constitutional rights of our students to receive an education and that the exercise of this right must exist in a secure environment.

As always before taking any official action, school districts should consult with their school attorney.

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