

**Education Alert
March 2018**

**HOW TO ADDRESS STUDENT WALK-OUTS
ON MARCH 14, 2018**

*For a discussion of these and other legal issues, please visit our website at www.mhtl.com.
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On March 14, 2018, at 10 a.m., students across Massachusetts are planning to walk out of school for seventeen minutes to support stricter gun-control laws and mental health resources for troubled peers.

Pursuant to a Supreme Court case, Tinker v. Des Moines Independent Community School District, school districts have the ability to discipline students for walking out of school because a walk-out would “materially and substantially” interfere with the operation of the school. To the extent that school districts intend to discipline students, they should notify students in advance of the potential consequences of a walk-out.

Although school districts have the authority to discipline students for walking out, school districts may want to consider not disciplining students, especially given the potential adverse public relations that may stem from any discipline of students for walking out. School districts may want to partner with students, parents, law enforcement, and community leaders to plan for the logistics of the walk-out, by for example, identifying a safe place for students to walk to, arranging for supervision during the walk-out, planning for how teachers and staff are to handle the departure of their students, and discussing what to do about community members arriving on school property. School districts will also want to communicate to students that, although the school district may be supporting students in their choice to participate in this walk-out, students may be subject to discipline if: their participation is not peaceful in the walk-out; they fail to return to class after the walk-out; or otherwise behave in a manner inconsistent with the planned walk-out.

School districts should further communicate with faculty and other staff that in their capacity as school district staff, they should remain neutral when discussing the walk-outs and identify consequences if staff were also to walk out. Even though staff has the right to engage in speech on matters of public concern, their rights are limited during working hours. School districts may want to consider offering a forum in which staff may express themselves outside of the school day.

Finally, to the extent that school districts allow the student walk-outs for issues related to gun-control and mental health, school districts should be aware of the precedent that they will be

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setting. There is the potential that, in the future, students supporting alternative or contradictory views could also arrange a walk out. School districts have to be careful not to regulate or punish students' speech based on viewpoint. Consequently, schools should think about the criteria they will and will not apply to support student walk-outs. Potential criteria for "when not to discipline" could include speech affiliated with national movements, a student's first walk-out, or walk-outs of a certain length of time.

This alert is only intended to flag certain potential issues for school districts regarding the upcoming planned walk-out. It is not intended to be a comprehensive guide for school districts with regard to this planned student demonstration. If you require additional guidance, you are encouraged to contact your school counsel.

If you have any questions about this issue, please contact Felicia Vasudevan or the attorney responsible for your account, or call (617) 479-5000.

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