COLLINS, LOUGHRAN & PELOQUIN, P.C.
Legal Counsel to Employers and Schools

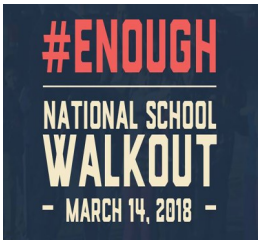
Client Advisor, Volume 6, Issue 2 **February, 2018**

#National School Walkout Planned for March 14th at 10:00 a.m.

A nationwide, student initiated call to action is circulating on social media calling for students and teachers to walkout of their schools for 17 minutes at 10:00 a.m. on March 14, 2018, in honor of the 17 people killed in the February 14, 2018, school shooting at a high school in Parkland, Florida.

School administration responses have varied in the face of news that their students are planning to participate in the walkout, from support for the protest, to threats of discipline for those who participate. The leading case on the rights of students to protest at school is the Supreme Court's 1969 decision in Tinker v. Des Moines Independent Community Sch. Dist., which upheld the right of students to protest the Vietnam War by wearing black armbands to school. The Court held that students had First Amendment rights, as long as the protest does not materially and substantially interfere with the operation of the school.

Whether a 17 minute walkout constitutes a material and substantial disruption may be open to question, there is a strong argument that students could be disciplined or preemptively prohibited from participating. However, so far the schools that have gotten out in front of the movement with threats of discipline have earned negative publicity. An alternative, and in our view more practical approach being planned in some schools, is to treat the walkout as a "teachable moment" and gain a measure of control over the "time, place and manner" of the walkout. Coordinating the event in advance with teachers and student leaders can result in less disruption, and a safer experience for those who decide to participate and those who refrain from participating. A safety plan could also include law enforcement and other first responders, especially if students will be outside the school and adjacent to public areas. By honoring students' desire for participation in the political process, the school can hopefully avoid becoming "the enemy" and lessen the disruption and lingering hard feelings (and possibly legal costs) that might occur if the walkout is strongly opposed by the school administration. If questions arise about the rights of students and teachers, be sure to check in with your CLP attorney.



SPEAKING ENGAGMENT

Tim Norris will be presenting "Making Teacher Discipline Stick and Other Sticky Problems: A Case Study of a Successful Teacher Dismissal, and Legal Pitfalls in Similar Cases" at the Massachusetts Association of School Personnel Administrators Law Day on March 23, 2018 at the Verve Crown Plaza Hotel in Natick.

MASPA

Town Not Required To Identify Union When Going Into Executive Session For Contract Negotiations

In Board of Selectmen of the Town of Hull et al. v. Maura Healey, Attorney General, 2017 WL 6601467 (2017) Plymouth Superior Court Judge Michael D. Ricciuti held that the Town did not violate the Open Meeting Law ("OML") by not revealing the identity of the unions it was engaged in collective bargaining disputes with and the name of a litigant. The decision is the result of the Town's appeal of a decision by the Massachusetts Attorney General's ("AG") office that Hull violated the OML by failing to provide "specific information" regarding the detrimental effect that necessitated the Town's withholding information.

The OML, M.G.L. c. 30A, ss. 18-25, allows public bodies to meet in executive session "to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body," provided that "before entering executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called."

The Court disagreed with the AG's determination, finding it imposed an "additional requirement" not found in the OML. The Court agreed with the Town that it had sufficiently explained its concerns for withholding the names of the union and litigant in the executive session notice. The Court remanded the matter back to the AG for further review consistent with its decision. Check with your CLP attorney to discuss any questions about drafting notices for executive session.