



Know Your Rights, Part I

August 19, 2020



TEXAS AFT
AMERICAN FEDERATION
OF TEACHERS



WE EDUCATE.

WE ADVOCATE.

WE VOTE.

#OurWorkIsPowerful

TODAY'S AGENDA

Part I

- Your right to organize your collective power
- FMLA & ADA leave
- Whistleblower protections
- Your statutory rights
- Q & A

Part 2

- Your First Amendment Rights
- Speech as a public employee
- Social media & other digital engagement
- Striking in Texas?
- Q & A

INTRODUCTION

Zeph Capo
Texas AFT President

YOUR RIGHT TO JOIN A UNION

- As a public employee, you have the right to join or not to join a labor organization
- You also have the right to have your dues and fees for that organization deducted from your paycheck
- Margaret Haley – Joined in 1898, 1916 helped form AFT, 1937 put 25k on the streets, formed CTU, 1967 CTU won first collectively bargained contract.
- Texas AFT has been working since 1974-
- FDR, "The only thing we have to fear is fear itself."



COLLECTIVE ACTION WORKS

- Where we have strong locals, we have seen the most progress
- Letters, car caravans, curbside protests
- Speeches at school board meetings
- The larger our voice, the more powerful we become!

Power concedes nothing without demand. It never has and it never will.
-Frederick Douglass



COLLECTIVE ACTION WORKS



- Where we have the strongest local unions, we also have the safest, most thoughtful plans on how to return to campus
- Houston, Dallas, El Paso, Socorro, Austin, San Antonio
- With more density, comes more power

FAMILY MEDICAL LEAVE ACT (FMLA)

- The FMLA entitles school district employees to take unpaid, job-protected leave for specified family and medical reasons, including reasons related to COVID-19.
- Must have worked for district at least 1250 hours during the 12 month period immediately preceding the leave.
- Eligible employees may take up to 12 workweeks of leave in a 12-month period for a serious health condition that makes the employee unable to perform the essential functions of his or her job or to care for a spouse, son, daughter, or parent who has a serious health condition.

FMLA & FFCRA

■ Families First Act (FFCRA)

- Allows an employee to take FMLA leave, and to receive partial pay for doing so, if the employee must care for a child **whose school has been closed for a COVID-19 related reason.**
- It allows employees to take FMLA leave if the employee is unable to work or **telework** due to a need for leave to take care of the employee's child if the school or place of care has been closed, or if the child care provider for the child is unavailable, due to a public health emergency.
- Expansion for this reason is temporary, until December 31, 2020.

WHISTLEBLOWER PROTECTIONS

1. Must report a violation of law
 2. Must be reported to the appropriate law enforcement agency
- Just because something is appalling, doesn't mean it's illegal!
 - Now applies to charter school employees!

ADDITIONAL RIGHTS

- Contract Abandonment
- Planning and Prep
- Duty-Free Lunch
- Lost or Stolen Student Issued Instructional Textbooks or Technology
- Documentation-Your Signature
- Public Information and Personal Electronic Devices
- Filing Grievances

Note: Under Texas Education Code Chapter 12A enacted in 2015, school districts may exempt themselves from specific state requirements under the Education Code. It is essential to check your local “District of Innovation Plan,” if any, for any alterations of rights and benefits discussed here.

PART I

QUESTIONS?

FIRST AMENDMENT

- Public schools embody a key goal of the First Amendment: to create an informed citizenry capable of self-governance and political debate. A democracy relies on an informed and critical electorate.

FIRST AMENDMENT RIGHTS OF PUBLIC EMPLOYEES

- The First Amendment protects “a public employee’s right, in certain circumstances, to speak as a citizen on a matter of public concern.” *Williams v. Dallas ISD*, 480 F.3d 689, 691 (5th Cir. 2007).
- A teacher’s or other public employee’s speech is protected by the First Amendment “when the interests of the worker ‘as a citizen commenting upon matters of public concern’ outweigh the interests of the state ‘as an employer, in promoting the efficiency of the services it performs through its employees.’” *Id.* at 692, citing *Pickering v. Bd. of Education*, 391 U.S. 563 (1968).
- Supreme Court has held that the First Amendment does not protect expressions made pursuant to an employee’s official duties. *Garcetti v. Ceballos*, 126 S.Ct. 1951 (2006)

YOUR VOICE IS VITAL

- YOU are the expert
- Speak up for your students and your colleagues
- You are among the trusted public servants and the world listens when you speak.
- First Amendment



SOCIAL MEDIA POSTING & SPEAKING TO MEDIA

“Teachers are willing to take a bullet for their kids, but now what you're asking me to do is take that bullet home to my family.”

- Longfellow 8th Grade U.S. History teacher and Alliance Vice President of Organizing and Member Engagement, Adrian Reyna.



SPEECH ON A MATTER OF PUBLIC CONCERN

Do

- Make clear that you are speaking as a public employee who is indeed speaking on a matter of public concern
- Make clear that your speech is about a public matter affecting many people, especially children—your area of expertise!

Don't

- Make personal complaints, your job performance does not constitute a matter of public concern
- Speak on a matter related to your official duties
- Make personalized attacks on specific individuals, thereby undermining the claim that her posts touched on matters of public concern.

TEACHERS IN LEADERSHIP POSITIONS

- Elected to a site-based decision-making committee?
- District advisory committee?
- Elected by your union to represent your colleagues?

STRIKING IN TEXAS?

- The Law
- The Risks
- Retirement
- Certification
- Alternatives
 - Join the union and Speak up!
 - Legal action
 - Local elected officials

PART 2

QUESTIONS?

AMERICAN FEDERATION OF TEACHERS REOPENING PLAN



- [HTTPS://WWW.AFT.ORG/SITES/DEFAULT/FILES/COVID19_REOPEN-AMERICA-SCHOOLS.PDF](https://www.aft.org/sites/default/files/COVID19_Reopen-America-Schools.pdf)

TAKE ACTION!

- Speak with a Texas AFT Representative about Organizing in Your Area
- Send our E-Letters
 - Tell Gov.Abbott to Do His Job!
 - Tell our U.S. Senators to Pass the HEROES ACT
- Red Wednesday Campaign (www.texasaft.org/redwednesday)
- Texas AFT's Election 2020 Endorsements
(<https://www.texasaft.org/campaigns/election-2020/>)
- Join Texas AFT

Join Texas AFT!

Sign up online at
www.texasaft.org

If you prefer, you may complete a paper form and/or pay
by check for the entire year's dues payment.
Find our application at **www.texasaft.org**



#OurWorkIsPowerful | #UnionStrong



/TexasAFT



@TexasAFT



www.texasaft.org

TEXAS AFT

**912 SOUTH HIGHWAY 183, SUITE 100-A
AUSTIN, TX 78741**

1-800-222-3827