

**LEGAL REFERENCE GUIDE  
FOR MEMBERS OF THE LOUISIANA FEDERATION OF TEACHERS  
REVISED JANUARY, 2009**

This Guide is intended to provide practical information for teachers, paraeducators, clerical employees, and other persons employed in Louisiana public school districts and charter schools.

LFT members enjoy benefits and protections in addition to those provided by law. Educators who are protected by Federation Collective Bargaining Agreements (Partnerships) enjoy even greater rights and protections.

Note: Many benefits listed in this Guide are available only for members of an LFT local who are in good standing at the time that the problem occurred.

This information may become outdated as a result of changes in the law, and court decisions. We recommend that you check with the LFT for updates.

**1. FALSE ACCUSATIONS AGAINST EDUCATORS;  
POSSIBLE POLICE INVOLVEMENT**

***What are your rights if a student or parent accuses you of corporal punishment, excessive force, or a morals offense? What should you do if the police may be contacted or become involved?***

Your reputation and your job are both at risk if you are accused of these types of offenses. Law enforcement authorities are usually contacted. The school district (or charter school) and the Police or Sheriff's Office may conduct separate investigations. While you may naturally want to cooperate with any investigation, you may unintentionally say or write something that could later hurt your legal rights.

**LFT recommends: Immediately contact LFT or your local before saying or writing anything!**

You have the right to remain silent. If the police want to speak with you, we recommend that you state that LFT has advised its members to first speak with an attorney.

If the officer asks you to sign a summons, we recommend that you sign it. A summons only acknowledges that you will appear in court. It is not an admission of guilt. Signing the summons may avoid an arrest.

If the principal, an administrator, or a supervisor wants to speak with you, or convene a conference, or request a written statement, ask for additional time to contact LFT or your local for representation.

These recommendations are for your protection. It is important for you to exercise your rights. Even if you want to give a statement or attend a conference, and even if you are completely innocent, we strongly advise you to first speak with a union representative for advice before taking action on your own that may be detrimental to your rights and against your best interest. Additionally, LFT will advise you of your protections and benefits under the AFT Occupational Liability Plan.

## 2. THREATS ON YOUR SAFETY

***What are your rights if a student or parent threatens you with physical harm? This is a "criminal assault." You have the right to:***

- Contact the Police or Sheriff's Office to press criminal charges and seek a peace bond.
- Request expulsion of the student.
- Ask the school district to ban the parent from school property.

There are other steps that you can take to address this problem and to hold the school district accountable.

**LFT recommends: Contact LFT or your local for assistance.**

## 3. JOB - RELATED INJURIES/WORKERS COMPENSATION

***What are your rights and benefits if you suffer a work-related injury?***

If your injury was caused by a battery committed by a student or any other person, or if you suffered emotional injury because of an assault (a statement threatening you with physical harm) you have the right to receive full salary for the duration of your disability, without loss of sick leave days.

If you were injured by physical contact with a student while assisting a student to protect the student's safety, you have the right to receive full salary without loss of sick leave days for a maximum period of one year (teacher) or ninety days (other school employees) because of your disability associated with the injury. If you were injured because of other reasons, you are entitled to collect workers' compensation, which consists of a percentage of your regular wages, up to a maximum amount that varies from year to year.

Additionally, your employer must pay for all medical expenses, doctor's bills, hospital bills, prescription drugs, over-the-counter drugs, transportation costs calculated according to a formula, and prosthetics.

You have a right to seek treatment by a physician, hospital or clinic of your own choice. Your employer has the right to send you to a doctor of their choice only for an examination, but not for treatment.

You are required to complete certain forms when you are injured. You should clearly state whether you were injured because of an assault or battery, or while physically assisting a student.

**LFT recommends: Contact LFT or your local for assistance.**

## 4. CRIMINAL CHARGES AGAINST STUDENTS

### ***What are your rights if a student commits a criminal act against you?***

If a student has committed a criminal act against you such as physical battery, assault (statements threatening you with physical harm), etc., you have the right to press criminal charges, which is separate from school district punishment. Also, as most educators are aware, in some situations schools are limited in the type of punishment that can be imposed on special education students. However, in many of these situations you still have the right to press criminal charges even if the school cannot impose discipline.

**LFT recommends: We urge you to use discretion. Contact LFT or your local for assistance.**

## 5. STUDENT INJURIES

### ***What should you do if a student is injured under your supervision?***

Despite all precautions, it is inevitable that students will be injured at school or during a school activity. Many parents believe, erroneously, that the teacher, supervisor, or the school district charter school is automatically liable. But in many cases, no one is liable. The question of whether the school district or charter school is liable, an employee is liable, or no one is liable, will be answered based upon whether the child was injured because of negligence, an intentional act, or neither.

**LFT recommends: Immediately assist the student and help obtain medical treatment if necessary, refer the student to the office or nurse, and complete all necessary forms.**

Make a list of all adults and students who may have witnessed the injury and give this list to the principal. If you are concerned that you may be accused of failing to properly supervise the student, or other types of negligence, or committing an intentional act, immediately contact LFT or your local for assistance.

## 6. REPORTING CHILD ABUSE

### ***What action are you required to take if you have cause to believe that a child has been abused or neglected?***

Louisiana law requires you to contact Child Protection authorities when you have cause to believe that a child has been physically or sexually abused, or neglected. You may be arrested if you fail to report directly to Child Protection. Some school district and charter school policies also require you to notify the administration and complete a form.

**LFT recommends: Immediately review policy, and follow it. If you have questions, contact the LFT or your local for assistance.**

## 7. SEARCHING STUDENTS OR THEIR PROPERTY

***Are you permitted to conduct a search if you suspect that a student possesses a weapon, drugs, or stolen property?***

According to law, school districts are required to implement policies that state who may conduct the search, and the circumstances under which a search may be conducted. If you search a student or a student's property in violation of policy, disciplinary action could be taken against you. Your actions also affect a lawsuit for money damages that the parent may file.

**LFT recommends: If you suspect that a student possesses a weapon, drugs, contraband, or stolen property, contact an administrator. We recommend that you NOT search students or property.**

## 8. AFT OCCUPATIONAL LIABILITY INSURANCE

***What protection do you have if a student is injured and you receive a letter from the parent's attorney, or if you have been sued?***

Federation members have tremendous occupational liability protection through a program administered by the American Federation of Teachers. A summary is printed in the brochure entitled "AFT Occupational Liability Plan," available at LFT or your local union office.

**LFT recommends: If you are served with a lawsuit or receive a letter from an attorney immediately contact LFT or your local for help. If you have been sued, there are deadlines to submit a written response, which should be handled by an attorney.**

## 9. DISMISSAL OR DISCIPLINARY ACTION

***What are your rights if you are accused of willful neglect of duty, incompetence, immorality, fraud, insubordination, dishonesty, excessive absences, standardized test administration improprieties, etc., or threatened with disciplinary action or dismissal?***

If you are accused of an offense or threatened with disciplinary action, it is important for you to know your rights and to exercise them. Your rights will depend on where you work (traditional public school, RSD school or charter school), your position (teacher, clerical, or paraeducator) and your classification (temporary, probationary, or tenured employee).

Once you acquire tenure, you have greater due process rights and job protection. Tenure provides you with protection against many offensive employment practices. Depending on your position, you may not be dismissed or removed (suspended without pay or demoted) unless you are accused of certain types of offenses and hearings have been held. You may have a right to representation at disciplinary conferences and hearings.

**LFT recommends: Immediately contact LFT or your local for assistance at the onset of the problem or prior to a conference or hearing.**

## 10. SIGNING DOCUMENTS

***What should you do if you are directed to sign a document that is inaccurate, or you disagree with the contents?***

**LFT recommends:** Write above your signature: *"My signature does not necessarily mean that I agree with the contents of this document."*

## 11. UNSATISFACTORY EVALUATION, OBSERVATION, OR ASSESSMENT

***What are your rights if you receive a "needs improvement," marginal, or unsatisfactory assessment, observation or evaluation?***

School districts and charter schools are required to follow specific procedures when conducting performance evaluations. If the procedures have not been followed, your rights have been violated. Additionally, schools must comply with the most important component of the evaluation process: to provide meaningful remediation and assistance to employees who receive a marginal, needs improvement or unsatisfactory rating.

**LFT recommends:** Immediately contact LFT or your local for assistance at the onset of the problem. It may be advisable for you to respond or take other action early in the evaluation process. If you wait until late in the school year, you may lose your opportunity – and your right – to protect your rights.

## 12. STANDARDIZED TEST PROBLEM

***What should you do if there is a suspicion of testing improprieties in your class?***

When suspicions of standardized test irregularities surface, the school district may conduct an investigation. You may be asked to respond to questions, to submit information, to make a statement, or to attend a conference or hearing. You may face the possibility of disciplinary action and even dismissal if you are accused of wrongdoing.

**LFT recommends:** Contact LFT or your local before you provide any information, or attend a hearing or conference.

## 13. DRUG AND ALCOHOL TESTING

***What are your rights if you are directed to undergo drug or alcohol testing?***

School districts and Charter Schools do not have an unlimited right to subject teachers, paraeducators, and clericals to undergo mandatory drug and alcohol tests. Individualized suspicion is required. Additionally, because of a lawsuit filed by two LFT local unions, the United States Court of Appeals for the Fifth Circuit has held that it is unconstitutional to require teachers, clericals, or paraeducators to be tested for drugs or alcohol after an accident unless there is individualized suspicion that impairment from drugs or alcohol caused the accident.

**LFT recommends:** If you refuse or delay, you may suffer disciplinary action. Immediately contact LFT or your local for assistance.

ALSO...

**We recommend that you call the LFT or your local for assistance and advice:**

- If the school administration doesn't support your recommendations regarding student discipline.
- If you experience problems with absences or tardiness, you should call at the onset of the problem. Waiting until the end of the year may be too late.
- If your school does not have a "School Crisis Management and Response Plan."
- If you know of illegal activities at your school and fear reprisal.
- If you experience any other problems and want to consult with persons who have decades of experience and give top priority to your interests.

## **LOUISIANA FEDERATION OF TEACHERS**

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### **RITTENBERG, SAMUEL & PHILLIPS, LLC**

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Attorneys at Rittenberg, Samuel & Phillips, LLC, handle many diverse areas of the law, including:

- personal injury (automobile accident)
- wills/probate/successions
- divorce/child custody and child support and community property matters
- criminal defense, with emphasis on defending marijuana charges and other drug cases and DWI
- labor/education law
- civil rights litigation

Reduced fees are available to members of the LFT and their families.

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(Note: To protect your privacy and confidentiality, we recommend that you do not communicate with us or the union through your school computer or an email server provided by your employer.)