

SAFETY IN OUR SCHOOLS

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For years, everyone has considered places of education and places of worship as havens, safe from guns and acts of deadly violence. But recently, there have been tragic accounts of both deaths and serious injuries caused by adults and youngsters committing violent acts involving firearms, weapons, and incendiary devices at schools and churches all over the country.

Can it happen in your school? One lesson must have surely been learned by now: *it can happen anywhere.*

Studies that have tracked these incidents of violence (going back to 1992, long before Columbine High School in Colorado), should cause every educator in every private and public school to spring into action.

But what action? Arrest? Expulsion, if a student was involved? While punishment is certainly a likely *reaction*, what steps can be taken to try to prevent these situations from occurring in the first place?

This will be the first in a series of articles that will discuss the issue of violence in the schools, and focus on the following questions:

1. What can educators at all levels do to try to prevent acts of violence?
2. Once a threat is made, how can educators react to try to prevent the threat from being carried out?
3. What are the legal rights of educators who suffer injuries as a result of acts of violence?
4. What is the potential liability of a school district that chooses to ignore threats of violence?

Part 1

What can be done to try to prevent acts of violence?

▶ In our opinion, the first step is for each school and school district to establish a district-wide Comprehensive School Safety Plan that includes (1) strategies to anticipate and prevent violence, and (2) guidelines addressing how to respond to threats and acts of violence. All educators should be involved in creating the plan, not just administrators.

▶ Additionally, school districts should require each school to create their own individualized safety plan, tailored to the specific physical plant and individual needs of the school. All school-site educators should also be involved in creating this plan, not just administrators.

▶ Many schools have implemented procedures to be followed if certain events occur; for example, a color-code warning system (for example, "code red" signifies that someone has a gun on campus, etc.) Sadly, in many schools, the plan consists *only* of the color-code system.

▶ The school district's plan should be comprehensive, dealing with prevention, response, and notification to everyone whose interests may be affected, including staff, students and parents.

▶ One of our local union offices received a call from a teacher, asking for help because a student threatened to return to school the following day and shoot her. Incredibly, before speaking with the student or anyone else, the principal told the teacher: "Don't worry, the student isn't serious."

▶ In another situation at another school, a principal was informed that a student made a threat against a teacher. The faculty was made aware of the threat, but the principal wouldn't disclose the identity of the teacher who was threatened - not even to the teacher herself. As you might imagine, no one bothered to protect the teacher's safety, either.

▶ The school district's Comprehensive Plan should include components requiring immediate action in these types of situations, not just a "don't worry, it won't happen" response. Specific precautions should be taken in each instance. It is common sense: inform the staff member who is the focus of the threat, and take immediate action to protect his or her safety.

Additional components of the plan should include the following:

▶ 1. In-service all educators on the types of conduct and behavior exhibited by students that may constitute warning signs. Classroom teachers and teacher assistants are best able to detect students who exhibit certain warning signs. But detection isn't enough; school districts must adopt a comprehensive plan with components to assist students who exhibit these types of behaviors and to take steps to try to prevent acts of violence.

▶ 2. Strictly enforce state laws and School Board policies that require all visitors to sign in and obtain authorization before getting past the office.

▶ 3. Establish rules, guidelines and procedures stating the circumstances under which visitors are permitted to go into classrooms and common areas - and then enforce them.

▶ 4. Review and consider creative ways to improve security at all entrances. We have often asked why schools don't lock their gates and exterior doors. The usual answer is that "the fire marshal

won't allow it." Yet we are aware of some schools that do lock their outside gates and doors. Local fire marshalls should be contacted.

▶ 5. Each school should create diagrams and maps of the school building and campus, which should be circulated to the local district police, fire and medical authorities. We have heard of one school district that gave the local police and fire department not only a diagram, but also a CD-Rom with a video of the school's interior, showing the location of all classrooms and common areas.

▶ 6. School districts should in-service all students on the issue of violence and safety. Students need assurance that if they overhear a threat of violence, they can safely report it without fear of retaliation or reprisal.

▶ 7. Establish programs for students to seek out assistance for their problems; implement peer-mediation and conflict resolution.

▶ 8. Consider whether student uniforms may serve as a useful tool.

▶ 9. Establish guidelines to place metal detectors at schools and for temporary use of metal detectors at schools on an "as needed" basis when there is a threat of violence. In one school, a student threatened to come to school with a gun. He was suspended for ten days - but no one checked to see if he brought a gun when he returned to school on the 11th day.

Last, in establishing and implementing these procedures, common sense and reason should prevail. We have all read stories about the 6-year old who was expelled for drawing a soldier. "Zero-Tolerance" should not mean "Zero common-sense."

Many school districts have already created these types of plans, and should be willing to share them with other school districts so the "wheel doesn't have to be re-invented" at every school district.

Part 2

What measures should school districts implement to try to prevent acts of violence after a threat has been made?

In Part 1, we focused on the measures that educators and school districts can take to try to prevent acts of violence at schools. We emphasized that it is important for each school district to adopt a Comprehensive Safety Plan to address the serious problem of violence. Equally as important, all educators should be aware of their roles and responsibilities. In this article, we will address the measures that school districts should take to react to threats.

Specifically: what measures should school districts implement to try to prevent acts of violence after a threat has been made?

▶ 1. First, the school district should take immediate and decisive measures to protect any person whose safety may be at risk because of a threat. This must necessarily include informing all persons who are targets, warning them of the threat, and taking appropriate measures to protect their

safety. As an example: there should be a procedure in place designating someone to immediately call the police, and to protect the person who has been targeted, and to escort them off the campus in order to protect their safety.

This may appear to be nothing more than common sense, but unfortunately, many school districts have not taken this vital step. As we reported in the last article, last year a Federation local received a call from a teacher, asking for help because a student threatened to return to school the following day and shoot her. Before conducting any type of an investigation, the principal told the teacher not to worry, because the student wasn't serious. In our opinion, this indifferent approach to a serious problem constitutes reckless behavior.

▶ 2. The school district's Comprehensive Safety Plan should include measures that the district should take once a threat of violence has been made.

▶ 3. The school district should consistently enforce its Discipline Code. Students should get the message that threats of violence will not be tolerated, and threats shall be met with a clear and *consistent* response.

▶ 4. If a student has made the threat, the student should be immediately removed from the school, and banned from returning at least during an initial period. However, we have actually seen situations where students have made threats of serious violence against educators at schools, and were simply suspended for a few days and then permitted to return with no measures taken to prevent the student from carrying through on the threat. Isn't it common sense for the school district to require some intervention strategies to make sure that the student is being counseled? Isn't it common sense to make sure that when the student returns from the suspension, he or she is not carrying a weapon? The failure of school districts to implement these types of common sense measures in our opinion shows reckless disregard for the safety and welfare of its employees.

▶ 5. School districts should place metal detectors at schools either on a permanent or "as needed" basis. For example, where a student is suspended after threatening to bring a weapon to campus, a metal detector can be brought to the school for temporary use. Louisiana laws govern the use of metal detectors at schools, and searching students, persons and property.

▶ 6. If a non-student makes the threat (such as a parent, visitor, etc.), the school district (and the employee who has been threatened) should enforce existing laws to have the person arrested for having made the threat. Under Louisiana criminal laws, a threat upon another person's safety is considered to be an "assault." Many people confuse an "assault" with a "battery," and use the terms interchangeably. Generally speaking, a battery takes place when there is physical contact, whereas an assault consists of a threat to commit the battery. An "assault and battery" takes place when the person threatens to commit a battery, and also carries out the threat by committing a battery.

▶ 7. All employees should be aware that they have a personal right to press criminal charges against the person making the threat against them. Employees should not be required to obtain permission from their employing school district, and their employing school board may not prohibit or interfere with their right to press criminal charges. Note: some school districts require employees to notify them after they have pressed criminal charges.

▶ 8. **In our opinion, the school district should ban the person making the threat from reentering the school property. Many school districts are not aware that there is a specific**

Louisiana law (Louisiana Revised Statute 14:63.3) that can be used to prohibit persons from reentering public property.

According to La. R.S. 14:63.3, if the owner or custodian of public property notifies a person that they are forbidden from returning to the property, and the person violates this direction, they can be arrested for violating the order. This law has been utilized successfully in a number of school districts who are concerned about protecting not only the safety of their employees, but the students as well. We strongly urge public school districts to apply this law.

▶ 9. Banning a person from property, however, doesn't fully address the situation unless employees at the school have been made aware that the person has been banned. The school district should make all personnel aware of the identity of persons banned from school property, and establish an internal warning system or code to alert or notify the appropriate security and administrators.

▶ 10. Most school districts are aware that students may lawfully be transferred to another school. Students making a threat against an employee should rarely be returned to the same school as the employee who they have threatened.

▶ 11. In certain cases, an employee may request a transfer from the school. For example, some employees have suffered from "post traumatic stress disorder" after being victimized by threats. School districts should quickly grant the request of such an employee who feels that it is in their best interest to leave the school.

▶ 12. In situations where a school district fails to react to a threat, the employee should consider sending a letter to the school district, placing them on notice that they are fearful for their own personal safety, and asking them (in writing) to address their concern.

For reasons that will be discussed in the Part 3, this measure may reap legal benefits at a later date.

Part 3

What are your legal rights if you have been injured on the job as a result of threats and acts of violence?

In 2001, the legislature passed a new law as the first step to attack the issue of violence in schools. Under this law, each school district is required to put into effect a safety plan, identifying what procedures it will use to attempt to prevent acts of violence, and to respond to threats. Each school district should make copies of the plan available to all educators.

We now change the focus to review the legal rights of educators who suffer injuries as a result of threats and acts of violence.

Most everyone is familiar with "Workers' Compensation," which generally refers to salary and benefits to which an employee is entitled after suffering an injury on the job (see above article "How to Exercise Your Rights When You Suffer a Work Related Injury"). Under workers' compensation laws, employees who are injured in the course and scope of employment are entitled to the following:

▶ 1. Workers' Compensation wages. This consists of 66 2/3 % of your salary, up to a maximum weekly wage of approximately \$415.00.

▶ 2. For the first week of your injury, you are required to use sick leave days. If you are absent for six weeks because of a disability associated with your injury, then the first week of your sick leave days are restored, and you receive workers' compensation wages for that first week.

▶ 3. Reimbursement of all of your medical expenses, including doctor bills, hospital bills, medical devices, etc.

▶ 4. Reimbursement of prescription and over-the-counter medication.

▶ 5. Reimbursement of transportation costs to and from the doctor or hospital.

Workers' compensation laws have one advantage. Under workers' compensation laws, you are not required to prove that another person's fault caused you to be injured. You are entitled to receive these benefits even if you are at fault.

However, there is one tremendous disadvantage: you are not entitled to claim additional compensation for your pain and suffering directly from your employer. This means that, unlike in automobile accident cases, even if you suffer extensive injuries, your rights are limited to the list of benefits above, and you cannot collect any money for your pain and suffering, stress, anguish, and any inconvenience, directly from your employer.

But what if you are a public school teacher in Louisiana, and you are injured because of an assault or battery committed by a student, or another person?

Thanks to the efforts of the Louisiana Federation of Teachers, you enjoy additional protections. These rights apply not only to teachers, but to all public school employees. Under a specific Louisiana law, if you are injured or disabled because of an assault (threat) or a battery (physical contact) made by a student or any other person, you are entitled to:

▶ 1. Full salary, without loss of any sick leave days, for the duration of your disability attributed to the assault or battery.

▶ 2. Reimbursement of all of your medical expenses. This includes doctors' bills, hospital bills, medical devices, etc.

▶ 3. Reimbursement of prescription and over-the-counter medication.

▶ 4. Reimbursement of transportation costs to and from the doctor.

In passing this law, the legislature recognized that educators face greater risks than employees in other workplaces.

Under the "assault/battery pay law," you are not required to use your sick leave days for the first week of your disability caused by the assault or battery. Your right and entitlement to full pay begins immediately.

It is important to note that a doctor's statement is required, certifying that you are unable to work, and that your injury or disability is attributed to the assault or battery.

We want to take this opportunity to remind you of some additional rights:

▶ **1. Whenever you are injured on duty, you have the right to select the doctor or hospital of your own choice.** Your employer has the right to send you to their doctor or hospital for an examination, but you have the right to select where you are treated.

▶ **2. Drug and alcohol screening tests after an accident may be unconstitutional.** In the past, some employees who have been injured on duty have been required to undergo a drug or alcohol screening, to determine if they were impaired from drugs or alcohol at the time of the injury on duty. This is lawful only if the school district has individualized suspicion that you may be impaired from drugs or alcohol when you were injured, and that the impairment caused the injury. As a result of a lawsuit filed against the Orleans Parish School Board and the Jefferson Parish School Board, it is now not legal for a public school board in Louisiana to require teachers, paraeducators or clerical employees to be subjected to drug and alcohol testing merely because they have been injured on duty.

Note: security guards, bus drivers, and employees whose responsibilities include driving students, may be legally subjected to drug and alcohol testing after an accident on the job.

▶ **3. You may have a potential lawsuit against the person or injured you (or their parent/guardian if they are a minor).** When you are injured during the course of employment, you are not entitled to claim money damages for your pain and suffering against your employer. However, you may have a valid lawsuit against the person who injured you. If that person is a minor, their parent or guardian is liable under Louisiana law. Consequently, we recommend that you seek and obtain legal advice to determine if you have good grounds for such a lawsuit.

▶ **4. This "assault/battery pay" law applies whether you have been injured by a student, parent, an outside intruder, or anyone.** It applies as long as you are in the course and scope of employment, which includes injuries that you suffer while participating in a mandatory extracurricular activity.

▶ **5. This law not only covers physical injuries, but psychological injuries as well.** In some situation involving threats made by students, parents and other persons, public school employees have suffered such a high degree of stress that they were unable to work. Appropriate medical experts must substantiate the disability.

There are many misconceptions about these laws that protect educators. Therefore, we recommend that you call the Federation if you are injured because of an assault or battery committed by a student or any other person.