

**WHAT YOU NEED
TO KNOW ABOUT**

Protecting Yourself



Education professionals can find themselves in situations, some routine and some very rare, where they are vulnerable.

Here are specific suggestions to help you ensure your professional and personal safety.

**A brochure for newer members
from the Program Services
Department of NYSUT**

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PROTECTING YOURSELF

School employees need to behave in such a way (and avoid certain situations) to protect themselves physically, medically, legally and professionally.

Touching students: A school employee who touches a student for perfectly innocent reasons may be accused of child abuse, sexual harassment or assault. Often, the charges are groundless, the case never goes to trial, or the employee is found not guilty. It's not fair, but the reality is that the eventual disposition of the charges may have a far lesser impact than the original accusations. The reputation and career of a totally innocent employee may be irreparably damaged.



New York State prohibits corporal punishment (any act of physical force used to discipline or punish a student) in public schools. It does permit a teacher to use reasonable physical force to protect a student or teacher from physical injury, to protect school property or to restrain or remove a disorderly student. Some students come to school with weapons, which puts at risk any employee trying to restrain or discipline such a student. If possible, secure assistance from school administrators before acting. Physical force should be used only as a last resort in a drastic situation.

If you must use physical force to protect or restrain, make sure there are witnesses to the sequence of events. Record the names of student and adult witnesses and write an account of what happened as soon as possible after the incident. Don't use more force than is necessary and never use physical force to punish a student.

Union representation

You may have a legal or contractual right to union representation during any meeting with your employer where your conduct is being questioned and you reasonably believe disciplinary action may result. If you are in doubt about whether you are entitled to union representation, ask for it anyway.

Here are a few examples of situations that could confront any school employee and, if common sense isn't used, career-threatening consequences could result.

Notes and emails: Personal notes, emails or text messages should never be written to students unless the messages deal solely with educational matters. Such communications can get you into trouble and should be used, if at all, within the educational context of your assignment. Emails sent from the school's computer may be subject to review by the employer and may be subject to public disclosure under Freedom of Information laws. Never send an email from the school's computer unless you would be comfortable sharing it publicly.

Know the pitfalls of Facebook, other social media: While Facebook and other forms of social media are commonly used to connect with friends and family, it has also become common for public employers to use information found on their employees' social media pages as bases for discipline. The law in this area is still developing. However, members are cautioned that their use of social media may have a negative impact on their employment.

What you do on social media sites is not "private." Despite Facebook's assurances that you can change your settings so only "friends" can see what you post, don't be fooled. Those friends are free to share what you post — in both the virtual and the real world. Just because you might use social media in your off-duty time does not automatically shield what you post from employer scrutiny.

New York's highest court has said that discipline can be imposed for off-duty conduct if it "has become the subject of such public notoriety that it significantly and reasonably impairs (an employee's) ability to discharge the responsibilities of the position." Public employers have already cited job-related "posts," "tweets," or pictures of employees engaging in even entirely legal behavior, such as drinking, as bases for discipline. Stop and think. If you're wondering "Should I post this," it probably means that you shouldn't. And most importantly, assume that everything you post may be seen by everyone.

Alone with students: Do not place yourself in situations outside the educational setting of your school where you could be alone with a student. This includes addressing the personal care needs of a student, giving a student a ride in your car, taking a student home with you, or taking a student to a movie or camping. Any time you are alone with a student, you are at a greater risk than when you are with a group of students and/or in the presence of adults. If an allegation of misconduct arises between you and the student, and there are only two

witnesses — you and the student — what really happened no longer becomes the issue. The issue becomes credibility — whose version of the incident is more believable.

Showing videos: To avoid unnecessary entanglement, a good practice is to include administrative input into video selection. It is an excellent idea to preview any videos to be shown in your classroom if you are not familiar with the content. Employees with the best intentions have gotten into trouble as a result of showing inappropriate videos to students.

Student health considerations: No one knows how many adults and students in schools are HIV-positive or suffer from other communicable diseases. All employees and students should take appropriate precautions. There are other students in schools who require health services, including the administration of medication, monitoring and/or cleaning of medical equipment and a variety of other actions. Most of these situations are governed by the New York State Nurse Practice Act and, generally, only licensed health care practitioners are authorized to administer medication. Consult with your union representative and school nurse before providing any health services to students.

Handling money: Regardless of the circumstances, do not handle money unless you first understand the procedures required by your district for doing so. Consult your contract, your union representative and your principal. At some point in your work experience, you might be asked to handle money. It might be as simple as holding lunch money for some students, or as significant as managing the school store or being in charge of a major fundraiser at your school. If the procedures for handling money are not in writing, you should do your part to get them reduced to writing, and then follow the procedures exactly. Sometimes it is hard to draw a distinction between mishandling and misappropriating. Be careful when you handle money; never commingle or mix school funds with your own.



Personal safety/avoiding hostile situations: While NYSUT has been and continues to be involved in making all schools safe, we must be vigilant and prudent.

Many different working environments exist among schools in our state. These suggestions for your personal safety, while on the job and commuting to school, may be more applicable in some settings than others:

- Car pool whenever possible. It's better for the environment, it's safer and it's sociable.
- When leaving school late in the day, ask another staff member to watch until you start your car.
- Do not leave belongings unattended. Lock your desk. Inform your union if your desk doesn't lock.
- Never be in a room with a closed door with a student or parent. Leave the door open and position yourself so you can be seen from the hallway.
- Never challenge anyone who is brandishing a weapon.
- Do not wear fancy, expensive jewelry to school.
- Each school district is required to have a sexual harassment policy. Every member should be aware of this policy. Contact your site administrator for more information.

Workplace health and safety: School districts must provide safe environments for all who work and study in their buildings. Know and follow accepted procedures to protect yourself and your students from environmental, toxic and medical hazards. State and federal occupational safety and health laws govern schools. All schools must have emergency plans covering situations ranging from fire or weather emergencies to school violence incidents. As a new school employee, you need to know what to do and where to go in emergencies. Your school should have specific guidelines. NYSUT also has information and material that may be helpful.

As a new staff member, you may feel intimidated about bringing health and safety issues to school administration. Contact your local union building representative to report problems. If your local has a health and safety committee, contact a committee member for help. Talk to co-workers and find out if other staff members have the same or similar problems. Your local then can bring the problem to the attention

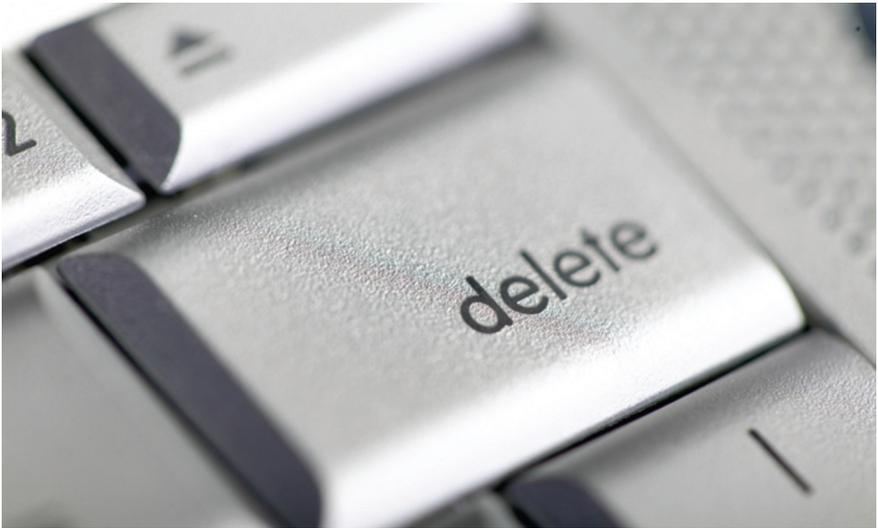
of the administration and present it as a larger issue, affecting several members. If you wish, ask your local union representative not to reveal to the administration that you made the complaint.

Records and rights: Teachers and School-Related Professionals are protected professionally by various state laws, regulations and their collective bargaining agreement with the school district. It is your responsibility to know your rights and responsibilities and to maintain proper records. Keep your professional file at home in a safe place. Don't count on your school district to keep your file up to date. Your file should include, at the minimum:

- Transcripts and diplomas documenting your academic credentials.
- Certificates and licenses documenting your professional credentials.
- Your collective bargaining agreement and any other material pertaining to your employment rights and privileges.
- Records regarding your pension plan, employment and salary history.
- Letters of appointment to current and previous positions.
- Correspondence of any kind relating to your professional life, including copies of any evaluations, observations or letters placed in your school personnel file. All correspondence with the State Education Department should be sent by certified or registered mail, with a return receipt requested.

Electronic communications at work: In general, you have no expectation of privacy with respect to employer-issued email and Internet accounts. Any such expectation of privacy you might have could be specifically limited if you sign an employer's express computer use policy which allows it to read, audit or otherwise access and use the email and Internet accounts it issues to you.

In addition, if your employer is a public employer such as a school district, the email you create, send or receive via the school district's computer system can become "records" of the school district which might be accessed through the Freedom of Information Law. In that circumstance, not only could the school district access your school district email, the general public could access your school district email as well. Such access could include email you may have sent from your home computer to your computer at work.



You should be aware that “deleting” email from your account will not delete the email from the school district’s computer system, and the email will still be accessible. Similarly, sending an email message is not at all like making a telephone call. Telephone conversations, in general, are not recorded. Email, however, is nearly always recorded. Email automatically records and stores the message you create, send or receive. It creates an electronic document out of such email, which later could be accessed. Text messages and instant messages are also recoverable.

While working for a school district, you will find yourself communicating with students, parents, faculty, staff and administrators, as well as other persons, using email and text messaging. You should keep in mind that email and other text-based messages record only the words and symbols that you type on a keyboard. Thus, context easily can be lost in an email or text message.

Irony, sarcasm and humor often do not come across well in email or text message. For that reason, whenever you create an email or other text-based message, you may want to use a courteous tone and plain language appropriate for the person receiving the message, be it a student, parent, colleague or other person.

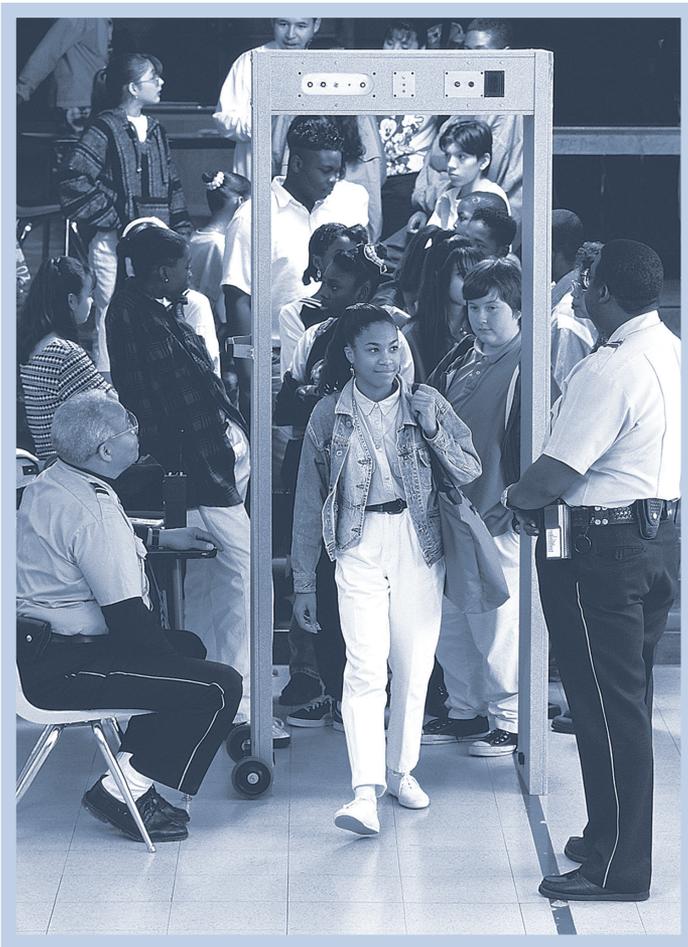
Your employer might specifically direct you to use email or post content about yourself on the employer’s web page in a manner that you believe is not appropriate. Refusing a lawful directive, however, could lead to allegations of insubordination. If you have any questions in this regard, be sure to address them to your union representative.

Using your work computer for unauthorized personal business might be grounds for discipline or to deny tenure.

Project SAVE: Working against violence

The Safe Schools Against Violence in Education Act (Project SAVE), culminating NYSUT's efforts to improve school safety, affords teachers and other school personnel greater opportunities to be involved in the development of school district policies and procedures concerning safe schools. Here is a summary of the law's major provisions:

- Penalty for assaults by any individual on a teacher or school employee or by any non-student on a student is a Class D felony.
- Teachers have the authority to remove disruptive students from the classroom pursuant to provisions of a locally adopted code of conduct.
- Boards of education are required to adopt a detailed code of conduct for maintaining order on school grounds. It must be developed in collaboration with student, teacher, administrator and parent organizations.
- Boards of education are required to develop district-wide and building-level school safety plans for crisis response and management.
- School district employees are given “whistleblower” protection (i.e., immunity from civil liability and protection against retaliatory actions by their employers) if they make a report about a suspected act of violence.
- Certified or licensed school personnel must report allegations of child abuse committed in an educational setting by school employees or volunteers.
- Interpersonal violence prevention education must be part of the curriculum.
- School conference days must include school violence prevention and training. Teacher certification candidates are required to complete two hours of course work or training in school violence and prevention.



- A civility, citizenship and character education component is included in the course of instruction in grades K-12.
- All prospective school district employees and all individuals who apply for certification must be fingerprinted for a criminal history background check.
- The State Education Department and the Department of Criminal Justice Services developed a uniform violent incident reporting system. School districts are required to furnish information on violent and disruptive incidents at schools and to report such incidents to local law enforcement authorities.

Dignity for All Students

The Dignity for All Students Act (DASA) builds on Project SAVE by targeting discrimination and harassment in public schools. DASA is aimed at fostering a learning environment that is free from harassment and discrimination. Here are highlights:

- The act prohibits harassment and discrimination of individuals on school property or at a school function based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.
- Boards of education are required to amend their codes of conduct to reflect the legislative policy of the act and must include a summary of this policy when they distribute codes of conduct to all students.
- Boards of education also must create policies and guidelines that align with the overall purpose of the statute.
- The act further requires school programs that discourage the undesirable behavior and conduct, as well as enable employees to prevent and respond to discrimination and harassment, through the development of guidelines for such programs.
- Each school must have one staff member thoroughly trained to handle sensitive issues of harassment and discrimination.
- The Commissioner of Education is required to provide direction (e.g., model policies) to school districts, provide grants and promulgate regulations, all of which will assist school districts in implementing the act.
- A school district is required to report material incidents of discrimination and harassment to the commissioner.
- The act provides civil immunity for persons who report discrimination and/or harassment if the individual has “reasonable cause” to suspect that harassment or discrimination has occurred and when that person acted “reasonably and in good faith” in making a report to school officials, to the commissioner or to law enforcement.
- The act prohibits retaliation against an individual who assists in an investigation.



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*NYSUT represents more than 600,000 professionals
in education, human services and health care.*

FOR MORE INFORMATION

NYSUT offers a variety of materials to help members. Visit www.nysut.org/publications to order free copies of our many brochures and posters.

NYSUT's Education & Learning Trust offers a professional development workshop on violence prevention that gives teachers strategies to work with students with serious behavior problems. For details, call 800-528-6208, email ELTmail@nysutmail.org or visit www.nysut.org/ELT.

For more information about your union and how your colleagues can help you build a successful career, contact your union representative or your local president.