

Are Your Adjuncts Going for a Walk? Get Prepared for National Adjunct Walkout Day, February 25, 2015

January 22, 2015

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by Mark Mathison and Meghann Kantke

National Adjunct Walkout Day, or "A Day without Adjuncts," is a grassroots national campaign scheduled for Feb. 25, and designed to draw attention to what organizers call the "plight" of adjunct faculty on college campuses across the country. The effort has a Facebook page and a Twitter account, but no central organizing committee. While labor unions support the action, they aren't the ones driving the bus, perhaps because federal labor law limits unions' rights to incite work stoppages. In any event, supporters have been trading ideas across social media and the blogosphere about how to participate.

Advance preparation and planning are vital in connection with the possibility that you may experience a faculty walkout or other collective action on National Adjunct Walkout Day. The activity on any particular campus is likely to be unique and specific, and may not be limited to the adjunct faculty. For a school's response to be effective and lawful, it will need to be tailored to the particular circumstances.

Prepare now for an effective and lawful institutional response to any adjunct job action on Walkout Day.

Gray Plant Mooty's Labor Law Team can offer timely guidance and assistance on preparation for, and response to, any collective action you may experience on National Adjunct Walkout Day. Depending on the particular circumstances, it may be appropriate to communicate in advance with adjuncts, their union, if one has been certified, the faculty in general, and possibly other constituencies of the institution. It may also be useful to have information about any planned action at your school; but caution is warranted in this regard because the labor law jealously protects the rights of adjuncts and others to engage in these kinds of activities. Such protection generally means that an institution may not engage, nor give the impression it is engaging in, active surveillance of union-based or other collective activity. Attempting to get an inside track



on planned walkout-related without adequately accounting for these legal issues may lead to charges of unfair labor practice at the National Labor Relations Board or similar state agency for public schools.

Administration officials should be made aware of these "**TIPS:**" the school may not engage in **Threats, Interrogation, Promises, or Surveillance** that are focused on protected activity of adjuncts or others.

There will be notable differences in the rights and duties of adjuncts and their institutions depending on whether the adjuncts are currently represented by a union, are actively engaged in a union election campaign, currently have a union contract in place, or have not yet trafficked in any such organizing activity. Advance planning and communication will almost certainly be useful in avoiding a variety of problems that could arise from local adjuncts refusing to teach on February 25, but only if local schools prepare thoughtfully to account for the interests of various constituencies and the parameters of the labor law.

Where participants are *not* represented by a union, or where a union campaign is underway, colleges should tread especially carefully. Faculty participation in National Adjunct Walkout Day will likely be protected concerted activity under Section 7 of the National Labor Relations Act (or state labor relations law for public schools). An institution can't punish such protected activity *in a way that differs significantly from the way it has handled similar activity that does not enjoy such legal protection*. For example, if the college doesn't generally exercise oversight or discipline in cases where faculty cancel or reschedule classes, it would not be lawful to do so in connection with any cancellation or rescheduling that occurs because of the national walkout. Schools must take care, as well, not to interfere in any other way with an exercise of protected rights

Potential Preparatory Actions Recommended for Consideration by Schools Employing Adjunct Faculty Include the Following:

- Lawfully gather information about planned walkout nationally, and assess information *received lawfully* about any planned local action.
- Carefully consider and articulate internally the interests of your school's various constituencies in this context.
- Develop and articulate, beginning internally, your school's position on Walkout Day activities.
- Get competent legal guidance on your school's rights and duties relative to prevention and/or response to Walkout Day activities, under your particular circumstances.
- If unionized, assess rights and prohibitions under your current contract or, if there is not yet a contract, under the applicable labor law.
- Develop advance communications with adjunct and other faculty and staff regarding expectations of them in connection with any work stoppage or other activity, and the consequences of any failure to meet these expectations.



- Consider planning both advance and responsive public relations communications.
- Develop a responding to any activity as it occurs on campus.
- Develop a plan for following through on consequences for any unmet expectations by faculty who participate in these activities.

For further questions regarding National Adjunct Walk-Out Day, please contact Mark Mathison at mark.mathison@lathropgpm.com (612.632.3247) or Meghann Kantke at meghann.kantke@lathropgpm.com (612.632.3414).