



Covering Teacher Strikes FAQs

In Denver, students are documenting what's happening on their campuses where teachers have gone on strike to protest issues like low pay and overcrowded classrooms. The following is meant to help answer questions for student journalists who are covering the events unfolding inside their schools.

Q: Do I have a right to record videos and take photos of what is happening inside my school and then share them?

A: Yes, but there are some limits to be aware of. At a public school, students can report on what's happening — including interviewing their classmates and teachers and photographing or videoing what is happening in public spaces — but you must be careful not to cross the line between reporting and becoming part of the news by engaging in advocacy or conduct that significantly disrupts normal school activities. The U.S. Supreme Court has long held that students have the right to engage in lawful, peaceful speech on campus during the school day and Colorado lawmakers passed a law in 1990 (C.R.S.A. § 22-1-120) that specifically protects the right of student journalists to lawfully cover the news free from censorship. However, school officials retain authority to ensure the orderly operation of their schools, which means that speech or reporting that will likely substantially disrupt the activities of a normal school day can be lawfully punished. The teacher strike is certainly newsworthy, as are the subsequent reactions in schools, so you may report on all of this. But you must be careful to objectively report on the facts and not encourage students to walk out of class or otherwise be disruptive.

Note that the public areas of the school (think hallways, cafeterias) are generally fair game for recording or photography because a person does not have a reasonable expectation of privacy when walking in an area that is so open to others. No one could reasonably argue that when walking down a crowded hallway, they had the same expectation of privacy that they would in a locker room or bathroom. Classrooms can be a tad trickier, since there are usually a smaller group of students in this setting behind a closed door. In such cases, we suggest student media identify themselves as reporters and ask for consent before taking photos/video just to be on the safe side.

Student journalists are uniquely positioned to provide a valuable perspective on a teacher's strike. We urge school administrators to respect the role of the student press (as well as the

laws that protect them) in covering what is sure to be one of the biggest news stories of the year. We urge student journalists to cover the story responsibly and in a non-disruptive, objective manner, being mindful of lawful school regulations and commands.

Q: Can administrators prohibit me from taking and sharing videos in the future?

A: As a student reporter at a public school, it is generally unlawful for a school official to tell a reporter or photographer that they can't cover specific topics or stories. This is called prior restraint. However, you will need to be careful if your specific school has a no-cell phones or no video/photography recording policy on campus. While the legality of such blanket bans has not been tested, if the policy is neutrally applied and journalists aren't singled out, then students may be at as much risk of being disciplined as they would be if they broke any other lawful school rule. Make sure that you are aware of whatever policies exist and, if you are threatened with discipline, make sure you identify what rule you're accused of breaking.

Q: Can students be punished for taking part in protesting or other activities that disrupt the school day?

A: Yes. While the First Amendment does protect the rights of students to engage in speech activities, those rights are not unlimited. Part of the balance the Supreme Court struck in its 1969 landmark ruling in *Tinker v. Des Moines* was that while it protected the students' right to wear armbands to school and to engage in other forms of peaceful protest, the Court said school officials could still censor two types of student speech: (1) Unlawful speech (things such as libel or obscenity) or (2) Speech that created — or would more than likely create — a serious, physical disturbance that interfered with normal school activities. Clearly, walking out of class during the school day — unlike quietly wearing an armband or taking a knee at a football game — interferes with normal school activities. (Colorado's law protecting student media adheres to the same general balance.) While nothing in the law requires that school officials dole out punishment, students who participate in such disruptive activities should not expect the First Amendment to protect them from the normal punishments issued against them if they miss class for unexcused reasons.

Q: Does FERPA keep students from sharing video and other media they've recorded on school campuses?

A: No. FERPA is a federal statute meant to prevent school administrators and employees from disclosing students' education records to third parties without student or parental consent. Student journalists are not school employees. They are not subject to the same FERPA restrictions. Information witnessed personally or recorded by a student on campus and then shared with the public is not an educational record and, therefore, is not protected under FERPA.

Q: By providing footage I recorded to professional news outlets, am I acting as an agent for that outlet?

A: No. In order for a principal/agency relationship to exist, the law requires there to be some sort of authority (be it actual or implied) bestowed upon a third party to act on behalf of the principal. In this situation, it would mean that the professional news outlets wield some sort of control over students in directing what they do and do not photo or video on their campuses. That is, quite frankly, a ridiculous assertion.

Q: What should I do if I am being threatened as a student reporter or have other questions?

A: Please contact the Student Press Law Center's hotline at: splc.org/legalhelp. The SPLC provides free information to student journalists and those working with them and can help you find local legal help should that be necessary.

Q: What is Year of the Student Journalist?

A: Brave, dedicated student journalists report important stories and produce content that shines a light on their community, such as the situation in Denver. They often break stories through diligent investigation and good reporting. Yet student journalists are continually threatened by censorship, retaliation, budget cuts, lack of access and many other challenges. Their advisers are also sometimes threatened for standing up for students' First Amendment rights. Few people understand the important contributions that journalism education makes to civic life. To address that, the [Student Press Law Center](http://splc.org), the [Freedom Forum Institute](http://freedomforum.org) and the [Newseum](http://newseum.org) have declared 2019 the Year of the Student Journalist. This will consist of a full year of high-profile national programming and local student-led events designed to raise awareness about the important role of student journalists, the struggles they face, the need for state-based legislation to protect the First Amendment rights of student journalists and their advisers ([New Voices](http://newvoices.org)), and to validate the importance of journalism education.



**Document last updated Feb. 13, 2019*