



April 27, 2018

XXXXXXXXXX  
Superintendent  
XXXXXXXXXX District  
XXXXXXXXXX XXXXXXXXXXXX  
XXXXXXXXXX, Arizona XXXXX

Dear XXXXXXX,

This week, your district unlawfully closed schools as part of a coordinated plan to allow public school employees to refuse to report for duty or to discharge their contractual obligations as district employees. Although dubbed a “walk-out,” this action constitutes an illegal strike. This letter is to inform you and all district employees that these acts are unlawful. If the district does not reopen and employees do not return to their duties, parents and students will have a legal cause of action against them.

The Arizona Constitution provides that the state shall provide for “a general and uniform public school system.” Ariz. Const. art. XI § 1. This provision guarantees all students the right to an education, *Shofstall v. Hollins*, 110 Ariz. 88 (1973), and imposes on the district the constitutional obligation to provide for that education as specified in the law and in the employment contracts to which these government employees have agreed. This unlawful strike—and the district’s efforts to aid or encourage it—are therefore not only a breach of contract, but an intentional effort to deprive Arizona students of their constitutional rights.

Arizona law does not permit public school employees to strike. *Communications Workers v. Arizona Board of Regents*, 17 Ariz. App. 398, 400 (1972); Ariz. Att’y Gen. Op. No. 71-12 (R-40) (Apr. 5, 1971); Ariz. Att’y Gen. Op. No. I80-039 (R80-12) (Mar. 18, 1980).

The refusal of public employees to honor the conditions of their employment contracts is a breach of contract, and a breach of contract constitutes insubordinate and unprofessional conduct under state law. A.R.S. § 15-534(C), (D). The Arizona State Board of Education’s Disciplinary Guidelines<sup>1</sup> specify that breach of contract is unprofessional conduct, and that employees who breach their contracts should be suspended for one year.

Arizona law also makes it a felony for any person to enter onto the property of a public school for purposes of from interfering with the lawful use of that property, A.R.S. § 13-2911(2), and forbids any public school employee from using school district resources to influence the

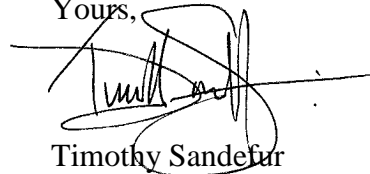
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<sup>1</sup> [https://azsbe.az.gov/sites/default/files/media/Discipline%20Guidelines%20Adtoped%20February%202017\\_1.pdf](https://azsbe.az.gov/sites/default/files/media/Discipline%20Guidelines%20Adtoped%20February%202017_1.pdf)

outcome of an election, or from seeking to pressure a subordinate on a political matter. A.R.S. § 15-511. Violations of this statute are punishable by fines of up to \$5,000, and violators can be held personally liable to repay misused funds.

In order to prevent the possibility of a lawsuit, it is necessary for district employees to return to work, and for the district to operate as normal, including, if necessary, taking steps to find substitute teachers to replace those who refuse to comply with their legal and contractual obligations. Also, the district must not facilitate the unlawful strike, including altering its employment policies to aid those who choose to violate their legal obligations or closing school when not absolutely necessary. Should the district fail to comply, parents and students will have grounds for lawsuits against the district and its employees.

Yours,

A handwritten signature in black ink, appearing to read 'Timothy Sandefur', written over a horizontal line.

Timothy Sandefur  
Vice President of Litigation  
Scharf-Norton Center for Constitutional Litigation  
at the Goldwater Institute