

# HOW TO EXERCISE YOUR RIGHTS WHEN A FALSE ACCUSATION IS MADE AGAINST YOU

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**Important: This contains dated material, subject to change. Revised August 2023.**

When a student or parent accuses you of excessive force, corporal punishment, or a morals offense against their child, your reputation and your livelihood are at risk. Criminal authorities are usually contacted. Both your employer and criminal authorities may conduct investigations. BE CAREFUL! You may innocently say or write something that could later affect your legal rights. You should exercise your legal rights, whether you are innocent or guilty.

## **1. WHAT SHOULD I DO IF I AM ACCUSED OF THESE TYPES OF OFFENSES?**

If you are a member of the Federation you should immediately contact the Federation office.

## **2. WHAT SHOULD I DO IF THE OFFICER ASKS ME QUESTIONS?**

**YOU SHOULD EXERCISE YOUR RIGHT TO REMAIN SILENT! YOU SHOULD NOT ANSWER ANY QUESTIONS CONCERNING THE ACCUSATION, EVEN IF YOU ARE TOTALLY INNOCENT, AND EVEN IF THE DEPUTY SAYS THAT YOU HAVEN'T BEEN ACCUSED OR AREN'T UNDER INVESTIGATION.** If asked, you should give your name, address and date of birth, and ask to have your attorney present before you make a statement.

## **3. IF I AM INNOCENT, WHY SHOULDN'T I ANSWER QUESTIONS?**

We have seen many situations where clients made statements but they later learned that their statements actually hurt their case. You have the right to remain silent, and you should exercise that right! Serious offenses are at stake, such as Cruelty to a Juvenile (FELONY), Child Abuse, Sexual Abuse, Battery, and Assault.

## **4. WHAT IF THE SHERIFF'S OFFICE THREATENS TO ARREST ME IF I DON'T TALK?**

If the deputy is going to arrest you, there is nothing you can say which will prevent it.

## **5. CAN I DO ANYTHING TO TRY TO AVOID BEING ARRESTED, WITHOUT ANSWERING QUESTIONS CONCERNING THE ACCUSATION?**

Yes. We recommend that you ask for a "Summons" instead of being arrested.

## **6. IF I AM ASKED TO SIGN A SUMMONS, SHOULD I SIGN IT?**

Yes. You are not acknowledging guilt. You are only agreeing to appear in court.

## **7. DO I NEED LEGAL REPRESENTATION AT MY FIRST COURT APPEARANCE?**

Your first court appearance may either be to set the bond or it may be an “arraignment” when you enter a plea. Representation is strongly advised.

## **8. WHAT IF THE PRINCIPAL ASKS ME QUESTIONS OR ASKS ME TO ATTEND A CONFERENCE WITH THE PARENT AND CHILD?**

It is not in your best interest for you to say or write anything until you consult with an attorney. When a law enforcement officer asks you questions, you have a constitutional right to remain silent, but if you refuse to answer a principal's questions, you may be accused of insubordination. Anything you tell a school district representative may be turned over to law enforcement authorities.

We suggest that either you or your union representative speak privately with the principal. If the principal has directed you to submit a written statement, ask for additional time (a day or two), so that you may obtain assistance. Explain that any statements that you make can later be obtained by the student's lawyer and may be used not only against you but also against the school board. If the principal wants you to attend a face-to-face meeting with the parent, and you are concerned that the parent may be confrontational or file suit, ask the principal to consider holding two separate conferences: one with the parent, and one with you (with representation). Explain that statements that you make may be taken out of context or misinterpreted by the parent, and the parent may attempt to use it against both you and the school board in a lawsuit for money. You may also state that you should not be required to make any statements in front of the parent, because personnel conferences should be private and confidential, and a parent would have no right to attend.

## **9. WHAT IF THE PRINCIPAL STILL DIRECTS ME TO SUBMIT A WRITTEN STATEMENT OR TO ATTEND A CONFERENCE WITH THE PARENT?**

Submit a written statement saying that you are not guilty of violating any policies or laws, and that you will provide further information later. You should attend the conference. However, you should state that you cannot answer questions in the presence of the parent without first consulting with an attorney. The parent does not have a right to a copy of anything that you submit in writing. You should ask the principal to call Central Office for guidance.

## **10. WON'T IT APPEAR THAT I AM GUILTY?**

It shouldn't. You should state that you wish to first speak with an attorney and that you will submit a statement later. Rights are more important than “appearances.”

## **11. WILL IT REALLY MAKE A DIFFERENCE IF I EXERCISE THESE RIGHTS?**

Yes. You don't know the parent's motives. The parent may file criminal charges or sue for money. You lose valuable rights by making a statement without legal advice.

## **12. WILL THESE ACCUSATIONS CAUSE ME ANY OTHER PROBLEMS?**

The parents may sue you. You may be contacted by phone, in person, or by letter, from the parent, an insurance company, or a lawyer. You should not make any statements to anyone! The school board may schedule a hearing to determine whether you have violated any policies. You should not attend any conferences without representation. As a Federation member, you are protected by the AFT

Occupational Liability Plan. For full information concerning legal representation on the criminal charges, on a lawsuit against you, and on school system hearings, contact your local Federation office or the LFT.