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Via email: janderson@hft2415.org

Ms. Jackie Anderson, President
Houston Federation of Teachers
Local 2415 AFL/CIO
2704 Sutherland Street
Houston, Texas 77023

*Re: New memo from Mike Miles regarding public comments
by teachers and staff*

Dear Jackie:

I have reviewed the memo released by the Appointed Superintendent Mike Miles today. I am glad that he has been informed as to what the First Amendment to the United States Constitution stands for. It would have been a tragedy for our members to be teaching the First Amendment in the classroom while the administration was violating it in the boardroom.

Mr. Miles is now taking the position that there has been no change in the policy previously adopted by HISD on October 15, 2021. We will not quarrel with that if the members who have already been affected are put back into the same position without sanctions. Mr. Miles cited the policy as follows:

Each employee shall be held to the same professional standards in their public use of electronic communication as for any other public conduct. If an employee's use of electronic communication violates state or federal law or District policy or interferes with the employee's ability to effectively perform their job duties, the employee is subject to disciplinary action, up to and including termination of employment.

Mr. Miles goes on to say that if a staff member has a question about whether an activity is acceptable, it is their responsibility to ask whether or not the activity is permitted. If anyone asks for such guidance and permission it cannot be unduly withheld because the administration disagrees with the content of the speech.

The First Amendment allows citizens to speak their minds on any topic they choose, with some limitations, without fear of government intervention. A public school district is government and cannot infringe on our right to free speech. The policy Mr. Miles quotes is a lawful policy if it is enforced in a lawful manner. In other words, the district cannot use the policy to fire teachers and/or staff personnel simply because they do not like the content of their speech.

The policy is clear that an employee who chooses to exercise their First Amendment right to speak out on a matter of public concern cannot:

1. violate state or federal law.
2. HISD Policy, or
3. Interferes with the employee's ability to effectively perform their job duties.

Anyone the district feels has violated any of these three is subject to disciplinary action up to and including termination. The problem with the policy is its guidance is rather slim. It applies to the public use of electronic communication. The third one is the hardest to police in my view as it is almost completely subject to the whim of the administration.

Here is my best advice, when a member chooses to speak out on a matter of public concern they need to:

1. Type it on a Word document first for editing.
2. Stop, think, and let it marinate for a bit.
3. Review it and make sure that it is what you want to say and it is professionally written.
4. Any communication should state explicitly that you are speaking out in your individual capacity as a private citizen and member of the community.
5. Do not tie your post(s) to your employment with the school district.
6. Do not put your employment with the school district on your social media accounts.
7. Make your contacts and details about you private.
8. Never post during work hours, only off duty time.
9. If you post pictures of yourself in protest do not have work shirts on.
10. Do not give the district the ability to tie your speech to the workplace by time, place, or manner.
11. It does not matter if it is in disagreement with what Mr. Miles or the administration's position is, however, be the biggest professional in the room at all times.
12. Don't use foul or offensive language.

13. If you feel that it is your First Amendment right to use foul or offensive language in your post, and it does, do not use the name or likeness of your school or district in any form or fashion in the post.
14. NEVER use personally identifiable information about students in a post.
15. NEVER make fun of a student(s) in a post.

If any member of the union finds themselves in the crosshairs of the HISD administration regarding their social media post(s) they need to take steps to protect themselves. First, they need to screenshot the posts to ensure that they are secured for evidence later. Next, they need to contact their union representatives BEFORE they respond to any request for comment or statement regarding their posts. This is what membership in the union is for, it is our hope that every member will let the union assist them through an investigation like this.

Teachers and staff working for an independent school district do not give up their right to free speech, however, don't leave your common sense at the door. Your right to exercise Free Speech is your right independent of the workplace. Keep it that way.

If I can be of any other assistance, please don't hesitate to contact me.

Sincerely,



Christopher L. Tritico
General Counsel for HFT

cc: Zeph Capo