

LEGAL MAILBAG – MARCH 20, 2025



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The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

As the principal of an elementary school, I am responsible for evaluating all the teachers in my building. I won't lie; it is a pain in the neck to go through the rigmarole of goal setting, mid-year check-in, and summative evaluation for everyone. And when a teacher is subpar, it takes even longer to provide the teacher the support that he or she needs.

Sometimes, we must think outside of the box, but when I did just that recently, I got significant pushback. My story goes like this. A new teacher in my school was having trouble with lesson closure, and she didn't seem to get it. I thought it would be helpful if I just recorded the last ten minutes of three different lessons with my cell phone. In the interest of authenticity, I did so covertly because I did not want to make her self-conscious. However, her reaction when I shared the recording with her has given me profound second thoughts.

Her first reaction when I started playing the recording back was disbelief (“you did what?”), which quickly turned to anger. Before I could even debrief with her over the content of the first recording, she stood up, told me that I would be hearing from her union, and she walked out of our meeting.

An hour later, the superintendent called and asked me to report to his office tomorrow morning. Give it to me straight. Just how badly did I mess up?

Signed,
Reflecting and Regretting

Dear Regretting:

Legal Mailbag applauds your attitude. If we are not making mistakes every so often, we are not trying hard enough. The real test is how we deal with our mistakes. Sadly, however, your mistake was a doozy.

Your actions do raise serious legal issues. The State Board of Labor Relations has ruled that surveillance of employees in the workplace relates to a mandatory subject of bargaining. Recording employees without prior negotiation is thus a unilateral change in working conditions. And doing covertly was icing on the cake.

That is not to say that there couldn't be circumstances when secret recording is permitted. For example, Connecticut General Statutes § 31-48d generally requires that employers provide prior written notice of any electronic monitoring of employees. However, the requirement for prior notice does not apply if the employer has "reasonable grounds to believe that employees are engaged in conduct which (i) violates the law, (ii) violates the legal rights of the employer or the employer's employees, or (iii) creates a hostile workplace environment, and (B) electronic monitoring may produce evidence of this misconduct." Investigating thefts from classrooms, for example, could be a situation that justifies secret recording. But problems with lesson closure certainly do not justify your actions.

Another legal problem for you is your district's teacher evaluation plan. Legal Mailbag has never seen an evaluation plan that permits use of covert recordings. Therefore, using your cell phone to record the end of these lessons as part of the evaluation process assuredly violated the provisions of your teacher evaluation plan. As you may know, teachers (or administrators) who allege violations of the procedures set forth in their evaluation plans have the right to file a grievance under the teachers' (or administrators') collective bargaining agreement. Conn. Gen. Stat. § 10-151b(a). Let's hope that a sufficiently sincere *mea culpa* on your part will forestall a grievance.

Finally, this mistake on your part transcends legalities. As you meet with the superintendent and then, presumably, have a restorative conversation with the teacher, you must own your mistake. Minimizing the teacher's concerns or seeking to excuse your decision-making will simply invite the teacher, the union (and maybe even your superintendent) to emphasize how serious your mistake was. By contrast, a sincere apology can work wonders to restore trust between you and the teacher.

The [CAS Annual Leadership Conference](#), which will be held at the Mystic Marriott next Thursday and Friday, March 27 and March 28, will include a number of enlightening workshops on a broad range of topics, including more information on electronic monitoring and surveillance of school employees. Legal Mailbag hopes that you can make it!