SECONDARY SCHOOL TEACHER'S
KNOWLEDGE OF THE LAW

THESIS

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By

Judy Wilcox, B. S.

Denton, Texas

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ABSTRACT


This study was concerned with determining the awareness of secondary public school teachers, in the Lewisville Independent School District, regarding the laws which relate to their profession. Fifty-nine true or false statements, involving nine areas of public school law, were administered. The study compared teachers' knowledge in areas of school law based on their personal background.

The thesis was divided into five chapters. These chapters included the Introduction, Review of Literature, Procedure, Analysis of Data, and Summary and Recommendations.

The findings of this study indicated the majority of teachers and administrators had an average knowledge of school law. Areas with lower incorrect responses included students' rights and the copyright law. A recommendation was made to plan an inservice meeting with emphasis placed on the most frequently missed responses.
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CHAPTER I

INTRODUCTION

During recent years, law suits have become standard operating procedure for many people in several different educational situations. Due to this practice, the courts of our nation have changed their position from reluctance to interfere in educational decision making to being an integral part of the decision making process involving public education. "With increasing frequency the courts of this country find themselves becoming more and more involved with the constitutional rights of teachers and members of other professional employee groups" (1, p. 167).

Our public school systems were created by the law. Therefore, any action taken by school personnel is subject to legal interpretation. Certain tasks, such as maintenance of facilities, instruction of students, control of students, allocation of funds, transportation of students, feeding of students, and the hiring and firing of employees, must be performed by the school boards and their staffs. These tasks are necessary to carry out the function of educating youths. However, school personnel are often subject to being sued for an alleged improper performance of these
Public school teachers possess certain rights and freedoms which are the same as any citizen. Some of these rights include the legal right to speak, think, and believe as one wishes. However, the public school teacher must experience these and other legal rights with the consideration of the effect it may have on others, particularly the school children with whom the teacher is in contact. Those who enter the teaching profession should realize, in advance, that certain legal restrictions are essential for the welfare of the students as well as for social order. When the restrictions appear to be unnecessary, unreasonable, or in conflict with the rights defined in the Constitution of the United States of America, teachers can be allowed to have their legal rights. There may be a lack of agreement among teachers, school boards, legislatures, and others as to what are reasonable restrictions, but when a disagreement of this nature occurs, the courts determine the reasonableness of the statutory and school board restriction concerning the teachers' rights and responsibilities. The current trend in making court decisions is to weigh the degree to which a teacher exercises a right in regard to the effect it will have on the pupils.

Sources of teachers' rights include individual contracts, any relevant collective agreement, policies of
state and local boards of education, state and federal statutes and state constitutional provisions as well as the federal constitution. Throughout the nation, a teacher's rights will vary depending on certain factors such as: the particular state in which the teacher teaches, local rules and contractual provisions involved, and the interpretations which the courts in his or her jurisdiction have placed on the federal constitution or statutory provisions. The legal principles applicable to a teacher's problem may differ depending on the particular school district in which the teacher is employed. The laws concerning the public school teacher are developing rapidly and changing due to legal suits which have been made against a teacher or a school district. Legal suits which have been dealt with or are currently being dealt with by the United States Supreme Court include collective bargaining and tenure for teachers, election of school board members, taxation for school district budgets, suspension of students, controversial instruction by teachers, school prayers, flag salutes, protest armbands, maternity leaves and race discrimination.

Statement of the Problem

This study will measure what teachers know about their rights and liabilities, their knowledge of teacher unions, civil rights, the copyright law, and the rights of custodial
employees under the federal law. It will measure the awareness of secondary school teachers in the Lewisville Independent School District, Denton County, Texas, to their legal rights and responsibilities as educators. The group, for this investigation, will include teachers from the three middle schools and the high school. The investigation will provide a comparison of teachers' knowledge of their legal rights as educators by sex, age, years of teaching experience, subject matter taught, level of education, position, and type of instruction concerning legal rights and responsibilities.

Significance of the Study

A descriptive study of secondary teachers' knowledge of laws concerning their rights and responsibilities was needed to discover the perception this group has of their legal rights and responsibilities. Ignorance of the law is not an acceptable excuse in the courts for negligence in performing the duties and responsibilities of a teacher. Teachers need to be aware of their civil rights as well as to be informed of the state and local policies governing a teacher's behavior.

"A Test on Supreme Court Decisions Affecting Education" was presented by Phi Delta Kappa consisting of a checklist of twenty statements concerning key Supreme Court decisions affecting education. The checklist was sent to four
hundred Phi Delta Kappa members of which only 26 per cent responded. The results of this checklist appeared in the April, 1978, issue. The findings concluded that "school leaders are not very knowledgeable about the meaning of Supreme Court decisions affecting schools. In fact, they are abysmally ignorant" (4, p. 52).

The mean score of the Kappans on this 20 item test was 10.7, only slightly above 50%. The various sub-samples did not average much beyond this figure. Sex, age, affiliation, role, experience, and the location did not seem to be significant factors. The mean score of administrators and teachers as a group did not differ at a statistically significant level either for higher education or for K-12 (4, p. 52).

Much has been published about the laws affecting teachers. However, little research has been done to discover how aware teachers are of the laws and interpretations of the courts.

This study was significant in that it

1. Provided information of how aware secondary teachers and administrators in the Lewisville Independent School District are of public school laws.

2. Provided information of how aware secondary teachers and administrators in the Lewisville Independent School District are of their rights and responsibilities as teachers.

3. Provided information of how aware the secondary teachers and administrators in the Lewisville Independent School District are of students' rights.
Objectives

The objectives of the study were as follows:

1. To determine the degree of awareness secondary public school teachers and administrators in the Lewisville Independent School District have of their civil rights.

2. To determine the level of knowledge teachers and administrators in the Lewisville Independent School District have as to their awareness of students' civil rights.

3. To determine the level of knowledge the teachers and administrators of the Lewisville Independent School District have of the legal relationships between the school and state and local governments.

4. To determine the degree of awareness the secondary teachers and administrators of the Lewisville Independent School District have of the new copyright law.

5. To investigate the amount of knowledge the secondary teachers and administrators in the Lewisville Independent School District have of the liabilities which may face custodial employees.

6. To measure the awareness of the secondary teachers and administrators of the Lewisville Independent School District as to hiring procedures of teachers.

7. To investigate the level of knowledge of the secondary teachers and administrators in the Lewisville Independent School District have of teachers' unions and rights concerning strikes.
8. To investigate the level of awareness the secondary teachers and administrators of the Lewisville Independent School District have of the responsibilities the teacher has to the students in his or her charge.

9. To measure the level of knowledge the secondary teachers and administrators of the Lewisville Independent School District have of classroom practices.

Limitations

The results of this study were limited by the following factors:

1. The questionnaire was administered to teachers and administrators on the secondary level of one school district.

2. The questions asked limited the results. Although the questions encompassed a variety of different topics pertaining to public school teachers' legal rights and liabilities, there was no way all facets could be covered without going into a more lengthy questionnaire.

Definition of Terms

For the purpose of this study, the following definitions are applicable:

1. Tort is a legal term meaning a legal wrong against a person, his property, or reputation, but it does not involve a contract (3, p. 50). 2. Negligence is the doing of that which a reasonably prudent person would not
have done, or the failure to do that thing which a reasonably prudent person would have done in like or similar circumstances.

3. **Tenure law** "provides for continuing employment of teachers who under its terms have acquired permanent or tenure status, and (b) requires school boards to comply with prescribed procedural provisions of notice, statement of charges, and right to a hearing before a tenure teacher can be dismissed, or before nonrenewal of the teacher's contract of employment can be effective" (2, p. 5).

4. A **teacher** is a person engaged in classroom instruction of academic subjects (who, in Texas, holds a Texas permanent teaching certificate and for whom certification is required by the employing school board).

5. **Probationary service** includes three consecutive years of employment and re-employment by the employing school board.

6. **Loco parentis** is the extent of the legal rights of the teacher to discipline and control pupils.

7. A **probationary teacher** is a teacher who has not served the three consecutive years in a school district.

8. When a teacher has a **continuing contract** the teacher has the right to continue in his or her position without the necessity of annual nomination or reappointment until he or she resigns or retires or until proven incompetent or guilty of moral turpitude.
9. A leave of absence is a teacher's absence from school for a period of time, with or without pay, and with or without effect upon tenure and contract, as authorized under state statute, or under adopted rules and regulations of local boards of education.

10. Assault is a tort committed against the mind. It involves fear, not contact.

11. Battery is unpermitted contact with another person in a rude or angry manner.

12. Defamation is that which tends to injure "reputation", diminish the esteem, respect, good will or confidences in which the person is held.
CHAPTER BIBLIOGRAPHY


CHAPTER II

REVIEW OF LITERATURE

Introduction

School law is not always consistent or clear cut and sometimes a question will arise which is in the gray area. However, this does not relieve the teacher from making a legally sound decision. This review of literature will give some background information of past legal decisions. To facilitate this review, the material has been divided into nine categories, which include the historical perspective of teacher and school laws as related to civil rights, teacher responsibilities, hiring procedures, teacher's unions, classroom practices, student rights, custodial employees' liabilities, legal relationships, and the copyright law. The historical background of each of these categories will be reviewed.

Historical Perspective

Kirp and Yudof (1974) state, "During the past two decades, lawmakers have reshaped the realm of educational policy. The courts have reviewed a wide range of issues
that historically have been resolved by school administrators and boards of education " (15, p 168). Teaching as an occupation is still trying to shake off the legacy of nineteenth century restrictions. The following excerpts are from a teacher's contract quoted in an article titled "The Teacher Goes Job-Hunting," by T. Mineham in The Nation, 1927.

I promise to take a vital interest in all phases of Sunday School work, donating of my time, service and money without stint for the uplift and benefit of the community.
I promise to abstain from all dancing, immodest dressing and any other conduct unbecoming to a teacher and a lady.
I promise not to go out with any young man except in so far as it may be necessary to stimulate Sunday School work.
I promise not to fall in love, to become engaged or secretly married.
I promise not to encourage or tolerate the least familiarity on the part of my boy pupils.
I promise to sleep at least eight hours a night, to eat carefully, and to take every precaution to keep in the best of health and spirits, in order that I may be able to render efficient service to my pupils.
I promise to remember that I owe a duty to the townspeople who are paying me my wages, that I owe respect to the school board and the superintendent who hired me and that I shall consider myself at all times the willing servant of the school board and the townspeople (7, pp. 1-2).

These excerpts were not uncommon in the 1920's because in frontier America, as well as rural towns, a tradition developed that prevented the separation of a teacher's private life from that of a teacher's occupational life. In the middle of the nineteenth century teachers lived with their students and would stay about a week in the home of
each student in lieu of cash wages. This arrangement contributed to the attitude that teachers have no private life and, due to this precarious arrangement, a teacher's life has been closely regulated by public rules and expectations of the community. Willard S. Elsbree in The American Teacher, 1939, explains it like this:

The explanation for this lies in the nature of the business in which they are engaged. Entrusted with the responsibility of instructing the young, they stand in loco parentis before the law and the public and are expected to keep themselves above reproach and to be subservient to the wishes of the most pious patrons in the community (7, p. 3).

Restrictions have always been placed on the lives of teachers and these restrictions follow the mores of the time but apply more strictly to teachers. These controls are well meant, but violate parts of the bill of rights for teachers. Most of the laws dealing with the constitutional rights of teachers have occurred in the past few years.

Civil Rights

The area of civil rights applies to the right of each citizen regardless of age, stature in life or background and are guaranteed to all citizens by our national government. Certain aspects of these rights will be discussed as they apply to public schools and to the students and teachers involved with the schools. The areas to be discussed include: religious practices, integration, compulsory
attendance, Title IX, bilingual education, the education of children of illegal aliens, corporal punishment, and the civil liberties of students.

At one time the incorporation of religion, such as prayers and Bible reading, was an integral part of our public education system. However, in recent years it has become a sensitive subject, mainly because of the families who practice religions other than Christianity or those who have no religious faith of any nature. It has been necessary for the courts to step in and make decisions as to the legality of religion in the classroom.

The issue of compelling participation in religious exercises in the public schools against the protests of parents has been litigated many times. After rulings on the Bible-reading controversy by state and lower federal courts, the United States Supreme Court finally rules against the requirement in School District of Abington Township, Pa. v. Schempp, 374 U. S. 203 (1963). Justice Clark, who wrote the majority opinion made the following statement;

...it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, 'it is proper to take alarm at the first experiment on our liberties.' (2, p 28).

Some other cases supporting this decision which occurred at the same time are Engel v. Vitale, (32 S. Ct. 1261, N. Y. 1952) and Murray v. Curlett (374 U. S. 203, 1963). In Engel v. Vitale, "the Supreme Court held that a state board of regents' ruling to that effect violated the separation of church and state clause of the First
Amendment, and was therefore unconstitutional " (20, p. 154). *Murry v. Curlett* was concerned with the same problem and conclusion as *Abington Township, Pa. v. Schempp*. However, these decisions do not prevent the offering of a voluntary prayer. "...it is when the state or subdivision thereof designates or requires such religious observances that the establishment clause is offended " (20, p. 154).

Some schools have found ways to offer the opportunity for prayer without offending the First Amendment rights of teachers and students. In 1964, the Massachusetts Supreme Judicial Court invalidated *Bible* reading and prayer in the Massachusetts public schools but two years later the Massachusetts legislature required a moment of silent prayer at the beginning of each day in the public schools. The bill was amended and passed by the legislature. The entire provision, as amended in 1973, reads:

> At the commencement of the First class day in all grades in the public schools the teacher in charge of the room in which each such class is held shall announce that a period of silence not to exceed one minute in duration shall be observed for meditation or prayer, and during any such periods silence shall be maintained and no activities engaged in (10, p. 354).

Another controversial issue is that of teaching evolution in the classroom. It has been a basis for lawsuits since John Scopes introduced Darwin's theory of evolution in 1925, and has received Supreme Court consideration as late as the 1970's.

In a 1968 case in which one of the plaintiffs was
a public school biology teacher, the Court refused to decide whether an Arkansas "monkey" law, prohibiting consideration of evolutionary theory in a state-supported school, violated the teacher's constitutional rights. Avoiding what it termed the 'difficult terrain', the Court instead struck down the law on the grounds that it was enacted for religious reasons and conflicted with the constitutional ban on establishment of a religion. In a concurring opinion, Justice Black stated that he could not 'imagine why a state is without power to withdraw from its curriculum any subject deemed too emotional and controversial for its public schools.' Nor was he 'ready to hold that a person hired to teach school children takes with him into the classroom a constitutional right to teach sociological, economic, political or religious subjects that the school's managers do not want discussed.'

But Justice Steward, also concurring, took a different view:

'It is one thing for a state to determine that the subject of higher mathematics, or astronomy, or biology shall or shall not be included in its public school curriculum. It is quite another thing for a public school teacher so much as to mention the very existence of an entire system of respected human thought. That kind of criminal law, I think, would clearly impinge upon the guarantee of free communication contained in the First Amendment...' (23, pp. 27-28).

The passage just mentioned came from the case of *Epperson v. Arkansas*, (393 U. S. 97, Ark., 1968). Arkansas is one of the several states that has had an anti-evolution law on their statute books for several decades and Arkansas has run litigation of the law to the highest court in this nation. In December 1970, the anti-evolution statute of Mississippi was invalidated by the State Supreme Court. The Supreme Court of Arkansas reversed the decision in 1967 and held that the anti-evolution law is
a valid exercise of the state's power to specify the curriculum in the public schools. Finally the United States Supreme Court reversed the decision of the Supreme Court of Arkansas.

The Supreme Court held "that the statute is presently more of a curiosity than a vital fact of life." After some discussion of academic freedom and freedom of expression in the classroom, the Court finally based its decision on another First Amendment clause, that of establishment of religion.

Congress (and later, the states) shall make no law respecting an establishment of religion...

It makes little difference whether the statute prohibits Darwin's theory as fact or fiction. The overriding fact is that Arkansas' law selects from the body of knowledge a particular segment which it prescribes for the sole reason that it is deemed in conflict with a particular interpretation of the Book of Genesis by a particular religious group. The statute is unconstitutional because it establishes a religion and because the courts should not intervene in the resolution of conflict which arises in the classrooms of the nation (20, p. 165).

Another problem concerning religion dealt with by the Supreme Court is that of transcendental meditation. Several high schools in the North organized classes in transcendental meditation because of its popularity with young people. A few lawsuits resulted because some adults of the community thought transcendental meditation promoted Hinduism as a religion. The results of one of these lawsuits follows:

A federal district court in New Jersey ruled that TM cannot be taught in the public schools because it violates the separation of church and state clause of the First Amendment. Defendants, said the judge, failed to show that TM is not a form of Hinduism. Four high schools in New Jersey were offering TM on an experimental basis under a grant from HEW. Opponents
claimed that TM was a religious exercise; proponents claimed it is designed to help students find self-awareness, define goals, and improve learning skills. However, the judge said that the school officials had failed to come up with sufficient proof to overcome the charge that TM is a religion. (Malheek v. Maharishi Mahesh Yogi, 46 L. W. 2244, N. J. 1977) (20, p. 149).

The area of segregation and desegregation has presented many cases which involve the civil rights of citizens of the United States. With the discovery that the "separate but equal" law was not successful, desegregation became the logical conclusion. Many cases involving desegregation, busing, and discrimination have come to the attention of the courts and court decisions in these cases have not always been the expected ones.

In 1976, a non-educational case decision, Washington v. Davis, had an effect on education.

With respect to school desegregation, the Court noted: The school desegregation cases have also adhered to the basic equal protection principle that the individual quality of a law claimed to be racially discriminatory must ultimately be traced to a racially discriminatory purpose. That there are both predominantly black and predominantly white schools in a community is not alone violative of the equal protection clause. The essential element of de jure segregation is a current condition of segregation resulting from intentional state action... (9, p. 709).

In an article written by Jeffry A. Paffel, it is stated that: "Desegregating a school system has never been an easy task, and in this decade the anti-busing movement and academic reevaluation of the effects of desegregation have made the task still more difficult " (22, p. 482).
With all the many complications involved in this issue, it appears that desegregation will continue to be a problem. Thomas J. Flygare states that "...courts may order changes in the present system only to relieve a constitutional violation or to remove obstacles to such relief" (9, p. 709).

Does compulsory attendance interfere with the civil rights of parents and students and what are the conditions under which a parent is allowed to educate his or her child at home? The following statement should clarify these questions.

Parents have the right to seek a reasonable alternative to public education for their children, but they may not replace state educational requirements with their own idiosyncratic views of what knowledge a child needs to be a productive and happy member of society. States require attendance at some school, but unless the home instruction is equal to or better than what the child would receive in public schools, parents are barred from keeping the child out of school. The burden of proof that the instruction the child is receiving at home is equal to or better than he would receive at the public school rests with the parents who have drawn their children from the public schools (Scopa v. Chicago Bd. of Educ., 391 F. Supp. 452, Ill., 1974) Compulsory attendance statutes have been upheld in the states on the basis of a compelling state interest in an enlightened citizenry, but the state must act reasonably in enforcing such statutes (20, pp. 60-61).

In the case of Wisconsin v. Yoder, (406 U. S. 205, 1972), the Supreme Court concluded compulsory attendance is not exclusive to all other interest.

However strong the state's interest in universal compulsory attendance, it is by no means absolute to the exclusion or subordination of all other interests.
A state's interest in universal education, no matter how highly we rank it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those included in the First Amendment and the rights of parents to control the religious upbringing of their children. The right of parents (to bring up their children as they see fit) is not established beyond debate as an enduring American tradition (20, p. 92).

Title IX, dealing with sex discrimination, has caused some problems with counselors as well as with classroom teachers. "Title IX guidelines deal with correction of problems of sexual discrimination in employment opportunities" (20, p. 46). Title IX deals with discrimination of a group instead of just one person. In the case of *Cannon v. University of Chicago*, Civil Action No. 76-128 (7th Cir., August 27, 1976), the court concluded: "It is clear that no individual right of (court) action can be inferred from Title IX in the face of the carefully constructed scheme of administrative enforcement contained in the act." (8, p. 422). In 1970 a study was made which concluded that

In public schools girls were not allowed to take boys' courses and *vice versa*, girls were barred from boys' sports; there were higher standards for women teachers than for men teachers; some positions were closed to women entirely; and women were discouraged from advancing up the leadership ladder (20, p. 46).

Counselors are liable for guidance under the Civil Rights Act of 1871 (42 U. S. C. Sec. 1983). Counselors can no longer guide students into 'boys' courses' or 'girls' courses', or discourage girls from taking such lines of work as engineering, medicine, law, or any number of formerly male-dominated
careers. Schools may not require higher admissions for girls than for boys, nor may girls be excluded from boys' sports if: 1) the girl can demonstrate equality of skill with boys or 2) the school does not have a girls' team in that sport (20, pp. 89-90).

Bilingual education is also another problem which falls in the category of civil rights. Certain parts of the country have a number of students who speak a foreign language. What happens to them? Are they guaranteed the right to an education taught in their native tongue?

It appears that in order to bridge the native tongue and instruction in English, the student is entitled to some assistance from school officials. Just how much that should be is still undecided. In San Francisco, some 1,800 Chinese children brought an action against the board of education claiming denial of equal protection of the laws when they were refused bi-lingual assistance upon entering the local schools, where instruction was in English. The Supreme Court, however, did not go so far as to say that bi-lingual education is guaranteed under the Constitution. It merely held that any school district which receives federal funds would lose such funds if it practiced 'discrimination' on the basis of race, color, or national origin (Lau v. Nichols, 94 S. Ct. 786 Calif., 1974) (20, p. 153).

The right of a free public education for children of illegal aliens is a question that has not yet been decided. There are cases in the state of Texas which are in question holding for both sides. (References are made to both of these cases in Appendix A, Statement 16.) During the past year, in Texas, several other cases have arisen regarding the right of a free public education to illegal aliens. On November 24, 1980, the local schools in Brownsville were ordered to reopen to illegal aliens after a 30 day freeze.
ordered by a federal judge.

U.S. District Judge Filemon Vela told Superintendent Raul Besteiro on October 22 to do what he could in the limited time to prepare for more students in the already crowded classrooms of the financially strapped border district.

Vela turned down the school system's request for a permanent exemption from a Houston federal judge's ruling that ordered Texas schools to provide illegal aliens with a free education. U. S. District Judge Woodrow Seals struck down a Texas law -unique in the nation- that prohibited use of state funds to educate illegal aliens (6, A-39).

The area of corporal punishment and the civil liberties of students can be combined because the civil rights movement has been so far-reaching it now affects children. Teachers must know what they can and cannot do with the children under their supervision. If a teacher administers the "wrong" type of punishment, a lawsuit could follow. There are certain procedures to be followed in administering corporal punishment to insure a student's civil rights.

The Court held that the North Carolina paddling law was constitutional, so long as teachers first afford the student three due process rights: 1) they must forewarn their students of behavior punishable by paddling; 2) another school official must be present; and 3) parents must be furnished a written account of the punishment although they may not veto the punishment itself. At all times, the teacher must not administer other than reasonable punishment; if this occurs, the student and his parents may institute an action for damages (assault and battery). The Supreme Court affirmed, without comment, the ruling of the federal district court (Baker v. Owen, 315 F. Supp. 294, N. C., 1975, affmd.,96 S. Ct. 210, Oct. 20, 1975) (2, p. 91).

It is very difficult to try to balance the civil rights of teachers and students, but civil rights are to protect
everyone. Teachers' rights have always been judged critically by the community because many parents believe that teachers should be role models for their children and that their behavior should be beyond reproach. Teachers have been discharged from their positions because the public did not think their personal conduct was appropriate to their position, even though their teaching skills were excellent. Teachers have also been dismissed for conflicting views with the school board, especially when they expressed these views publically. A question many teachers are concerned with is: where is the dividing line between our personal rights as citizens and our responsibilities as teachers? At some time in almost every teacher's career he or she is faced with having to put aside or hide personal feelings in order to maintain good standing within the community. Some of the areas to be discussed in this section include: voicing of personal opinions, contracts, right of resignation, tenure laws, personal appearance and activities, sexual preferences, and a counselor's privileges.

The First Amendment to the United States Constitution guarantees all citizens the freedom of speech. The question then arises that, since teachers hold a position which can influence formative minds, does a person relinquish the right to the freedom of speech when he or she takes a teaching position? This question found its way into the courts in the case of Birdwell v. Hazelwood School District.
Birdwell, a probationary teacher, objected to the presence of ROTC on the school campus to provide information to students about the military service. In objecting to their presence, the teacher led a general discussion about the armed forces, became upset, and suggested further that apples should be thrown at the recruiters. Hudgins (1975) reports that both the principal and the superintendent of the Hazelwood School District recommended that the teacher be dismissed and the school board agreed and voted to release him. The court upheld the school board based on the reasoning that although a teacher is protected with some degree of free speech, the protection is not absolute. The action in which he had engaged in the classroom was unrelated to his duties as a mathematics teacher. The Constitution does not protect teachers' comments directed as inflaming students to action (15, p. 171).

This reasoning seems to be in keeping with the Downs court in Downs v. Conway School District (1971), which expressed its view in this fashion: "The teacher's methods are not without limits. Teachers occupy a unique position of trust in our society, and they must handle such trust and the instruction of young people with great care " (15, p. 171).

One of the most significant cases concerning first amendment rights is the case of Pickering v. Board of Education. A case which originated in Illinois and went to the Supreme Court for final settlement.
In the proceedings, the United States Supreme Court of Illinois which had upheld the dismissal of a teacher (Pickering) by the school board for sending a letter to a local newspaper concerning a recently proposed tax increase. The letter severely criticized the school board and the superintendent for the manner in which they had previously handled proposals to raise and use revenue. The board dismissed the teacher for writing the letter which allegedly contained false statements, claiming that they damaged the reputations of board members and the school administrators (2, pp. 79-80).

The two major questions presented by this case were examined by the Supreme Court. "First, it considered whether Pickering could be dismissed for making critical comments in public. Can public criticism, even if it is true, disrupt discipline and loyalty, and therefore form a basis for dismissal?" (7, pp. 19-20).

The Court found that the statements in Pickering's letter consisted mainly of criticism of the school board's and the superintendent's method of informing (or not informing) the taxpayers of the real reasons why additional funds were sought for the schools. Such statements, said the Court, are in no way directed toward any person with whom appellant (Pickering) would normally be in contact in the course of his daily work as a teacher. Thus no question of maintaining either discipline by immediate superiors or harmony among coworkers is presented here. Appellant's employment relationships with the Board and, to a somewhat lesser extent, with the Superintendent are not the kind of close working relationships for which it can persuasively be claimed that personnel loyalty and confidence are necessary to their proper functioning (7, pp. 19-20).

The Pickering decision does not always protect the First Amendment Rights of teachers, as is illustrated in the first two cases (Birxwell v. Hazelwood School District and Downs v. Conway School District). For example, if a
teacher carelessly made a false statement which had a harmful impact, without making an effort to verify the information before publishing it, he or she might be dismissed.

As Justice White pointed out in a separate opinion on the Pickering case, 'Deliberate or reckless falsehoods serve no First Amendment ends and deserve no protection under the Amendment: And the Supreme Court stated in a previous case, 'The knowingly false statement and the false statement made with reckless disregard of the truth, do not enjoy constitutional protection' (7, pp. 22-23).

In the April 1977 issue of Phi Delta Kappa, Thomas J. Flygare points out that even though non-tenured teachers normally have no procedural rights, they still have the constitutionally protected right of speech.

Justice William Rehnquist developed a two-step procedure for lower courts to use in cases of this kind:

1) Burden is on the teacher to show that his free speech activity was a 'substantial' or 'motivating' factor in the board's decision not to rehire him. If he proves this, then

2) the burden shifts to the school board to demonstrate 'by a preponderance of the evidence that it would have reached the same decision as to the (teacher's) reemployment even in the absence of the protected conduct.' If the board is able to show that it had sufficient reason based on constitutionally unprotected behavior to terminate the teacher, then the court cannot order reinstatement and back pay (7, p. 645).

A teacher cannot be discharged by exercising his First Amendment right of freedom of speech, whether his views are popular or not. For the civil rights of teacher are guaranteed by the Constitution of the United States; they are not privileges granted by the citizens or administrators of each school district. Thus, a teacher cannot be fired for writing a controversial novel or play, for expressing unpopular
political or economic views, or for publically discussing unconventional ideas outside of class (7, p. 27).

Academic freedom and responsibility are defined as the liberty and obligation to study, to investigate, to present, and interpret and to discuss facts and ideas concerning man, human society, and the physical and biological world in all branches and fields of learning (15, p. 170).

Academic freedom is more limiting for the public school teacher than to college and university teachers because of the *loco parentis* status of the public school teacher. Public school teachers exercise a small amount of academic freedom because much of what public school teachers teach is determined by the state boards, the school district, the individual department, court decisions and constitutional provisions.

In addition to the First Amendment, the other main source of constitutional protection for teachers is the due process and equal protection clauses of the Fourteenth Amendment. Section one of the Fourteenth Amendment states "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws " (4, p. 2).

Among the cases which have gone to court claiming violation of the Fourteenth Amendment are cases challenging
residency rules and maternity leaves. "The New Hampshire Supreme Court declared invalid a city ordinance which required teachers and classified city employees to live within the city limits on the ground that the ordinance restricted the fundamental right guaranteed to every citizen under the state and federal constitution to live where he chooses and to travel freely (18, p. 10).

In law suits by female teachers contesting schoolboard maternity rules, one federal district court concluded that the Atlanta school board policy which granted maternity leave to tenure teachers but denied it to nontenure teachers was arbitrary and had no rational bias. The court declared that the policy was violative of the equal protection clause of the Fourteenth Amendment and ruled that the board must grant maternity leave to tenure and nontenure teachers alike (4, p. 10).

There are often conflicting decisions made by the courts. For example, a federal district court in Virginia and a federal district court in Ohio arrived at opposite decisions concerning maternity regulations which required teachers to take leave by the end of the fourth month of pregnancy, and the other system by the fifth month of pregnancy. A federal district court in Virginia made the decision that the regulation denied pregnant women equal protection of the laws because it treated pregnancy differently from other medical disabilities. However, a federal district court in Ohio concluded that no constitutional rights of the teachers had been violated. Both cases have been appealed.
The obvious conclusion as to the constitutional rights of teachers is dependent upon the interpretations of the courts. A teacher cannot automatically assume that because one court has arrived at a certain decision that another court will arrive at the same decision. If the teacher feels the decision was not fair then he or she may appeal the case and the decision may be reversed by a higher court.

Tenure laws basically provide rights which help a teacher secure a place within the school district. A tenured teacher cannot be dismissed from a teaching position without good cause. These laws have been developed for the protection of the teacher. A California court explained the purpose of teacher tenure:

The broad purpose of teacher tenure is to protect worthy instructors from enforced yielding to political preferences and to guarantee to such teachers employment after a long period of satisfactory service regardless of the vicissitudes of politics or dislikes of those charged with the administrators of school affairs (13, p. 115).

In Texas the usual probationary period for a teacher is three consecutive years. This is sometimes extended to four years if the school board is in doubt of a teacher's competence. However, at the end of the fourth year, the school board has to make a decision as whether to put the teacher on a continuing contract or to terminate his or her employment. In Texas, causes for teacher dismissal, whether probationary or continuing, are "... immorality, conviction of a felony or other crime involving moral turpitude,
drunkenness, repeated failure to comply with official
directives and established school-board policy, physical or
mental incapacity, or repeated and continuing neglect of
duties " (19, p. 83).

In addition to these causes for dismissal,

The school board may dismiss a continuing contract
teacher or return him to probationary status for no
more than three years for any reason enumerated for
dismissal during the school year, or for any of these
additional reasons: inefficiency or incompetency,
failure to comply with reasonable requirements the
school board may prescribe for achieving professional
improvement and growth, willful failure to pay debts,
habitual use of drugs or hallucinogens, excessive use
of alcoholic beverages, necessary reduction of
personnel and for failure to meet the accepted
standards of conduct for the profession as applied in
similarly situated school districts in the state (18,
p. 83).

The pro side of tenure is to insure a teacher's
position, but there are people who believe the tenure laws
make it difficult to get rid of bad teachers. In an article
written by Jerome Cramer, it is pointed out that "the tenure
movement started at the turn of the century, as a tool to
clean up public education. Teaching positions were handed
out as rewards for hard work during partisan political
campaigns. State tenure laws were passed to protect
teachers from political expediency." (5, pp 22-24). Cramer
points out that the school boards do have a way to get rid
of tenured teachers, but the process is complicated and
expensive.

Theodore H. Lang, professor of education at City
University of New York says five requirements are needed before the school board can dismiss a tenured teacher:

A legally permissible cause, compliance with the prescribed statutory process and with the general principles of due process; a record of observation and evaluation, citing specific efforts to warn the teacher and to assist him to improve; hard and substantial evidence, collected in a constitutionally permissible manner, and an overlay of good faith in the process (5, p. 23).

Some suggestions have been made to hopefully improve tenure laws including lengthening the probationary period, making tenure renewable every five years, or replace tenure laws with collective bargaining. Some school boards and teacher unions support teacher evaluation as a way to strengthen education. The problem with this, some teachers believe, is that if a bad evaluation is used to get rid of a poor teacher, it might just as easily be used to get rid of a union organizer, or a good teacher who is older, but gets more pay. At this point teachers are not willing to relax tenure laws without assurance that this will not happen.

A contract is generally a simple piece of paper stating the terms offered and the acceptance of those terms; however, there are a great many details a teacher should know about a teaching contract. Both the teacher and the school board should understand the contract's purposes and limitations, because if both parties understand the contract fully, they should seldom conflict. Realizing the extent of a teacher's rights and responsibilities under his or her
contract can pose some questions, and the following list consists of some facts which are made valid by signing the contract:

1. Not being properly certified will prevent you from being paid.

2. You must legally accept the contract in the proper manner.

3. When you accept the terms written in the contract, you also accept the responsibility of working under the reasonable rules and regulations of your local board.

4. You have some duties and responsibilities in teaching other than conveying knowledge to your students.

5. You do not have the duty or responsibility of performing menial services, or services unrelated to your educational preparation.

6. Also, there are only special circumstances in which the board can dismiss you from your teaching duties. If you are improperly dismissed, the board is breaking its contract, and will be liable (13, p. 89).

No one can write a contract which will cover every conceivable problem and a teacher is expected to know many things concerning the contract without these items being written in the contract. The courts have outlined a teacher's rights and responsibilities under a teaching contract and the following statements further explain the previous list:

1. All states have laws which govern teacher certification. A teacher must meet the requirements for the state in which he or she wishes to teach. First, a teacher must prove that he or she has completed the required college courses. Then the teacher has to prove he or she is physically capable of
handling the position and that he or she is of good moral character. Once a teacher has met these requirements, the certification cannot be revoked unless at sometime later the teacher does not have the necessary qualifications. This means that the State Board of Education must renew the teacher's certification as long as the requirements are met and no charges of incompetency have been filed against the teacher.

2. In order for a contract to be legally binding on the school board and the school it must include:
   a. Mutual agreement to the terms;
   b. Consideration to both parties;
   c. Both parties must have the capacity to sign; and
   d. The contract must be lawful in its purpose (13, p. 92).

Mutual agreement to terms means the teacher agrees to perform certain services and the local board agrees to pay the teacher for these services. Agreement comes about through an offer made by the board and an acceptance made by the teacher. An offer should state: "(1) The services you are to render, (2) the price to be paid for these services, (3) the time for you to start, and (4) when the services are to be completed" (13, p. 93). Once an offer has been accepted it is binding and generally cannot be revoked. The contract must be signed and sent back within the time limit stated by the local board.

There are certain laws a school board and teacher must follow in renewing a contract. The general law is that

1. Your school board must give you notice before a certain date as to renewal or non-renewal of your contract.

2. If your board fails to give proper notice, your contract is considered renewed at a salary not less than what you are presently receiving.
3. When you have not received proper notice, your contract will not be automatically renewed unless you give proper notice of your acceptance before a certain date.

4. Where you have given proper notice, and the board has not, you have a valid contract which the board must issue (13, p. 99).

In the public schools of Texas, notice of intention to terminate the employment must be given to the teacher by April 1 before the end of the contract period. "Failure to give the teacher such notice means election to re-employment for the next school year if the teacher has served less than three consecutive years, or employment in continuing contract status if the teacher has served three consecutive years" (19, p. 83) *Cummins v. Board of Trustees of the the Panes Independent School District*, 4685 S. W. 2d 913, Court of Civil Appeals of Texas, Austin, June 9, 1971, upholds this notice of intention of termination. The school board voted on April 10, 1970, not to renew the teacher's contract and informed the teacher of this intention on May 4, 1970. The court's decision was that the teacher had the right to sue the school board "for damages for breach of contract or deprivation of constitutional rights" (18, p. 27).

A teacher who breaks his or her contract is subject to dismissal. The most common grounds for dismissal include

1. Incompetency. 2. Immorality. 3. Insubordination. 4. Physical or mental disability. 5. Unfitness or inadequate performance. 6. Services are no longer needed, due to a decrease in students, courses positions, or schools. 7. Conviction of a felony or a crime involving moral turpitude. 8.
Failure to show normal improvement in professional training and growth. Any cause which constitutes grounds for the revocation of your teaching certificate (13, p. 107).

If a teacher decides to resign from his or her position he or she cannot until the resignation has been approved by the school board. If the teacher should decide to withdraw the resignation before the board as acted upon it, it is possible, and although the contract is binding it may be breached by mutual consent.

Almost every school district must allow a teacher a certain number of days for sick leave with full pay for the days missed. The number of days may vary with the school district but many states will allow the sick days to accumulate. Other types of leaves which are written into the policies of school boards include: leave for military duty, pregnancy leave, joining the peace corps and sabbatical leave. The teacher needs to check the policies of his or her school district and if the teacher feels the policy is unfair, then he or she has the option of taking legal steps. The question has often come up in the past, and will again in the future: Is a leave for teachers considered a right or a privilege?

In brief, one concludes that sick leave, military-civic leave, and sabbatical leave under statutory authority are, in general, considered by the courts to be privileges which the teacher may demand, but maternity leave, absent statutory provisions, is a privilege residing within the discretion of the board of education (2, p. 37).
In the past it has been very common for the public school authorities to impose rules or codes of dress considered appropriate for teacher. "In 1915, one teaching contract obligated a female teacher not to dress in bright colors, not to dye hair, to wear at least two petticoats, and not to wear dresses more than two inches above the ankle. In 1924, Santa Paula, California, forbade bobbed hair and dismissed one teacher solely because she bobbed hers" (23, p. 117). Today's codes for "proper" dress of the public school teacher not only impose rules or restrictions for female teachers but for male teachers also. The efforts on the part of school authorities to regulate the personal appearance of teachers have been challenged for a number of different reasons.

It is alleged that such regulation unconstitutionally (1) infringes upon 'symbolic speech' in violation of the First and Fourteenth amendments; (2) interferes with personal liberty secured by the due process clause of the Fourteenth Amendment; (3) intrudes upon a right of privacy - the right to be let alone - which, it is contended, is secured by the 'penumbra' of the First or Ninth Amendment; and (4) denies equal protection of the laws secured by the Fourteenth Amendment (23, p. 118).

In the 1969 case of *Lucia v. Duggan* a Massachusetts school board dismissed a non-tenured teacher for the violation of an unwritten school policy that teachers should be clean shaven, but the court found the dismissal violated constitutional standards. "The Lucia case held that, even if wearing a beard is not a constitutional right, school
officials cannot dismiss teachers for wearing beards unless pursuant to clear written rules that are published and communicated to teachers and are applied with reasonable due process" (7, pp. 71-72). In *Finot v. Pasadena City Board of Education*, the California court went a step further and held that a beard is a form of self expression and is entitled to the protection of the First Amendment.

According to *Finot*, only if it can be proven that a beard has interfered with a teacher's effectiveness can a school take action against the teacher. The *Finot* court would presumably strike down similar rules prohibiting a teacher from wearing a mustache, a goatee, or long hair. Exceptions would probably be made in cases in which controversial grooming was disrupting and distracting or posed a danger to health or safety. Otherwise it would be protected (7, p. 72).

The extent that school authorities have in controlling the mode of dress of school teachers is another matter and in general, it may be summed up as a teacher's attire must not disrupt the educational process. Courts try to protect a teacher's grooming as a form of symbolic speech, but not his or her dress. Courts tend to consider it more of an invasion of personal freedom to order a teacher to shave than to expect teachers to follow a dress code.

A recent case, *In the Matter of Heather Martin*, (New York 1971), involved a female physical education teacher who gave swimming lessons to a class of junior high boys while attired in a bikini type bathing suit. She was directed not to wear this suit while giving instructions to students.
The New York Commissioner of Education held the ruling that

There is no question but that a board of education, as any employer, may establish reasonable standards with respect to the general mode of attire of its employees in connection with their various work assignments. However, respondent in this case has not sought to establish such standards but rather based its action on the contention that petitioner's bathing suit was a 'distracting and disrupting influence.'

The record before me contains no proof in support of that contention. To the contrary, the director of athletics of the respondent's school indicates that the discipline in the petitioner's classes has always been excellent. Respondent does not contend that petitioner's attire was indecent, and has not established that it was disruptive of the educational process. Absent such proof the appeal must be sustained (23, p. 120).

A conclusion which can be drawn is that, in general, schools are liberalizing their dress codes both for students and teachers. In one court case it was decided that pants can even be an aid in teaching, especially in the lower grades where a teacher has to stoop down or over to be on the same level with pupils. In the future, the courts may extend the same protection to dress, under the First Amendment, that beards now receive.

Until recent years the courts have not been supportive of a teacher's freedom in his or her personal life and at one time it seemed to many teachers that their images were more important than what they actually taught in the classroom. However, recent judicial attitudes are beginning to change in suits involving restrictions placed on teachers, by school authorities, which are intended to control a teacher's private life. Recent court decisions
have arrived at the conclusion that whatever act is committed, the act must relate to a teacher's unfitness to teach.

A teacher's conduct, argued Schimmel and Fischer (1974) indicating that he is unfit to teach must be supported by evidence. In making a decision of fitness, the court suggested that a board consider the likelihood that the conduct may adversely affect students or fellow teachers, the likelihood of the recurrence of the questioned behavior, when the conduct took place and the surrounding circumstances. The court felt it dangerous to allow the term 'immoral' and 'unprofessional' conduct to be broadly interpreted because of the misunderstanding that could possibly occur in individual interpretation of those most general terms (15, p. 172).

There are several court cases which tend to support the recent trend toward teachers having a right to a personal life. In 1967, an Ohio court concluded that a teacher could not be dismissed for what was termed vulgar and offensive language written in a letter to a former student.

The court indicated that the proper criterion for determining whether a teacher's conduct warrants dismissal under a statutory standard of 'immorality' is whether his conduct is actually 'hostile to the welfare of the school community,' and 'the private speech or writings of a teacher, not in any way inimical to that welfare, are absolutely immaterial of such standard.' Such private acts by a teacher are his own business and may not be the basis of such standards. Such private acts by a teacher are his own business and may not be the basis of discipline (4, p. 17).

In 1969 the California Supreme Court ruled that a teacher's certification could not be revoked because of his participation in a homosexual relationship with another teacher with the basis for this decision being that the
relationship in no way affected his fitness to teach.

The court stated that the purpose of a statutory provision authorizing the revocation of a teaching certificate 'for cause' is not to punish the teacher but to protect the public. The court phrased the application rule as follows:

An individual can be removed from the teaching profession only upon a showing that his retention in the profession poses a significant danger of harm to either students, school employees, or others who might be affected by his actions as a teacher (4, pp. 17-18).

The court had to take into account the teacher's right to personal life and this right is the basis of the court's decision. A teacher's conduct cannot constitutionally be made business of the state.

Another topic to be considered is that of public school counselors and privileged or private information which is sometimes given to them. Counselors are given the right to keep privileged information secret unless this information could in some way harm another person or student. In such case(s) the counselor must by no means treat it as privileged information because nationwide, only lawyers have this privilege.

The courts are more interested in preserving teacher's personal rights than ever before in history and in general the courts agree that teachers are entitled to the same rights of personal freedom as all citizens unless this right somehow interferes with his or her ability to teach. Teachers must, however, keep in mind that the courts do not always interpret the law in the same manner.
Teachers' Responsibilities

A teacher's responsibilities to his or her students, to the administration, and to the community are numerous, and sometimes these groups make unreasonable and unfair demands on teachers. Everything that happens in connection with the school cannot be prevented by the teacher. Therefore, a teacher sometimes finds himself or herself involved in a liability case which he or she could in no way control. Courts have generally upheld that if a teacher took reasonable precautions he or she could not be held liable. This section is devoted to some of the responsibilities for which a teacher is liable, including: teacher liability for an injury; parental permission forms and how they relate to teacher liability; teacher liability for an injury that occurs while the teacher is absent from his or her post of duty; and some responsibilities which are beyond the teacher's control.

Although teachers have civil rights which give them protection under the law, there are still some responsibilities that a teacher is liable for under the law and the policies of the school district. Many of these responsibilities stem from the position that the teacher holds of teaching and supervising youths who do not possess the wisdom or the experience of the teacher. Therefore, the teacher often stands in loco parentis and upon
occasion, the teacher must exercise discipline and control. It is very important that the teacher use good judgement in maintaining control and in taking precautions to avoid unnecessary risks. Although accidents do occur from time to time, if the teacher has taken proper precautions and has taken all foreseen possible steps to insure the safety of students, then he or she cannot be held responsible whether the accident took place on school premises or on a school sponsored activity. For the teacher to be found at fault, it would have to be proven that he or she was guilty of negligence. Still, there are many instances in which teachers have been involved in tort liability cases.

Torts can happen either accidentally or intentionally, but there are some basic guidelines to prevent torts. It is important that teachers understand these principles:

1. If a person is made afraid for immediate personal safety, the tort of assault has occurred. 2. Assault generally precedes a battery, and the latter can sometimes be prevented by taking appropriate steps of discipline at the assault stage. 3. In school, you are a substitute for the parent. Therefore, you have the power to administer moderate correction to your students. 4. You may detain a student within fixed boundaries. 5. You may temporarily confiscate a student's personal property, but you may not permanently retain possession. 6. Libel and slander should not be condoned anywhere. This includes faculty rooms and administrative offices (13, p. 53).

Many times assault and battery occur together, although they are two separate torts. A teacher has the privilege of discipline due to legal relationship (loco parentis) he
or she has with his or her students and a teacher needs to be aware of the degrees to which he or she may go when administering physical discipline.

There are many forms of punishment and corporal punishment is not desirable except in special cases. In New Jersey and Massachusetts, for example, corporal punishment is prohibited by the law. Texas, on the other hand, feels it is justifiable. In many other states, school districts prohibit it in their certified staff policies, or permit corporal punishment only if it is administered by the principal or another teacher.

An Alabama court expressed the generally accepted rule that: "...the teacher is, within reasonable bounds, the substitute for the parents...and is vested with the power to administer moderate correction, with a proper instrument, in cases of misconduct, which ought to have some reference to the character of the offense, the sex, age, size, and physical strength of the pupil" (13, p.36).

Corporal punishment, as a means of controlling students' behavior, is not nearly as prevalent as it once was because most states leave the decision of whether corporal punishment is permissible or not to the local school authorities. School authorities are obligated to make sure the punishment is reasonable which means that the purpose of the punishment is for correction, that the student be aware of the reason for punishment, that the punishment not be cruel, that it is suited to the age and sex of the pupil and that it is administered in a teacher-pupil relationship.

Another tort which is a threat to teachers is that of slander, or defamation. A teacher cannot be held liable for defamation if the statement is made within proper
administrative channels and providing he or she is acting in good faith. Slanderous statements should never be made in the presence of other students, nor should they be made in the faculty rooms of schools in order that the statements not influence the thinking of other people. Generally, a teacher should remember in regard to liability that:

1. You may be liable where you have failed to ensure the safety of your students. 2. You must explain your rules to the students, and you must enforce them at all times. 3. You must act in the way a reasonable and prudent teacher would act in the same situation. 4. You must eliminate dangerous conditions or activites in cases where a future accident can easily be foreseen. 5. Although a student may have been careless and contributed to an injury, you still may be liable (13, p. 51).

Negligence results whenever a teacher fails to care for students in the manner that a reasonable teacher would care for them. Some situations in which a teacher may be held liable for negligence are as follows:

1. A vocational science instructor may be liable where a student is injured and has not been instructed in the use of the vocational machinery or scientific chemicals. (Engle v. Casper, 177 A 2d 595, N. J. 1962)

2. A physical education teacher may be liable for not properly supervising gymnastic activities, and for not providing safety pads and matting where such equipment is foreseeably necessary. (Novel v. Board of Education of City of Albany, 48 N. Y. 2 d 299, 26, App. Div. 621, N. Y. 1944)

3. A teacher may be held liable for improper medical treatment where he is not acting in an emergency and the treatment is not immediately necessary. (Guerritore v. Tyson, 24 A 2d 468, Pa. 1942)

4. A teacher may be expected to give personal instruction to students who have a difficult time in
performing particular exercises. (Rellman v. San Francisco High School District, 11 Cal. 2d 576, 81 p. 2d 894, Cal. 1939)

5. Making students do exercises that are not suitable to their age, sex, physical, or mental capabilities can bring about liability. This is especially true in gymnastic activities such as rope climbing and tumbling. (Ibid.)

6. Disciplinary actions such as lifting, shaking, dropping, etc., a student might be considered excessive if an injury results. (Bex v. Arnold School District, 137 S. W. 2d 256, Ark. 1940)

7. A teacher might be held liable where a student is sent on the teacher's personal errand, with directions on how to do the task, and injury results from the activity. Moreover, liability is especially imposed where an accident is foreseeable. (Vindus v. Board of Higher Education of City of New York, 168 N. E. 2d 838, Ct. of App. N. Y. 1960)

8. You can be liable where you do not give or get prompt medical attention where the ordinary prudent layman would know that such attention is necessary. You could be liable for injury that resulted from your unreasonable mistreatment or delay. (Holmes, O. W. Jr., The Common Law, Little, Brown, and Co., Boston, Mass., p. 108, 1980).

9. A football or basketball coach, etc., can sometimes be liable in failing to supervise the removal of an injured player. Here the lack of supervision causes or augments an injury. (Ibid.) (13, p. 57-58).

A teacher should take care to warn students of potentially dangerous situations because sometimes injuries are foreseeable in certain situations, such as

1. Where large crowds of students are gathered without supervision; 2. in specialized activities in vocational education, physical education, and science classes; or in cases where you are absent from the room for an unreasonable length of time (13, p. 62).

A teacher should not be held liable for a student injury if the injury is in part due to his or her own negligence, as in the case of Cot v. Barnes (Kentucky 1971). In this case the father of a deceased high
school student brought a wrongful death action against a teacher, athletic director, and principal. The student had drowned while swimming in an area with no swimming signs posted, while on a school activity. The court "found no error in the jury instructions because there was no evidence that the faculty members had time to save the boy after the peril in which he placed himself was discovered or discoverable " (18, p. 118).

Teachers sometimes worry about taking their students on field trips. A signed form from the parents is necessary because it insures the parent's approval of the basic trip and records the parent's recognition of potential dangers involved in the trip. The question then arises, does this signed permission slip relieve the teacher from liability? The answer is, "No. You may not limit your liability by waiver from the parent. If liability-producing injury occurs on the trip, the authorization will not offer you any defense." (18, p. 176). The signed document is sometimes honored by the parents and could possibly inhibit a potential law suit, but parents cannot excuse gross negligence toward their children.

Even with the courts granting teachers more rights than ever before in history, the addition of giving students more rights is occurring, and giving rights to one group often takes rights away from the other group. It is not possible to maintain a balance, for along with the rights of teachers comes the responsibilities, and these responsibilities are far-reaching. Perhaps a teacher's best defenses are rational thought, foresight, and intelligent students to work with.

Hiring Procedures

When a person completes his or her studies and begins to seek employment in the teaching profession, he or she is naturally concerned about hiring procedures. How does a person seek employment in the teaching field? Who is responsible for the hiring of teachers? How and when will he or she be informed of employment? These are all questions a potential teacher should have when seeking
The first step is to fill out the application(s) for the district(s) of which the teacher would be interested in working. The districts needing teachers will proceed to call qualified teachers to come in for interviews. The superintendent or personnel director may interview the potential teacher, but the teacher is not hired until the school board votes, because all teachers are hired by the school board, acting as a body. Likewise, when a teacher resigns, it is not official until the school board has met and acted as a body in accepting the resignation.

Teacher Unions

There are many problems teachers have, including insufficient salary, and naturally the question arises of how can teachers correct this situation. In many areas of employment workers go on strike when their demands are not met. Negotiations are then started and usually a compromise is reached and workers return to their jobs. In the case of teachers, who appear to some as public servants, the course of action is not as easy. In some states, including Texas, teacher strikes are illegal and in cases like this, the outcome of the strike would be unsure. What recourse, for instance, is available to teachers in getting their demands heard?

A case in which teachers went on strike in a state
(Wisconsin) where strikes are illegal occurred in 1974.

The teachers started the school year without a contract and negotiations continued but reached an impasse in March, when the teachers went on strike. The eighty-six teachers who remained on strike were fired, but letters were sent to the teachers advising them of the board's action and inviting them to reapply for teaching positions. The U. S. Supreme Court ruled a reversal of the decision made by the Wisconsin Supreme Court.

Chief Justice Warren Burger wrote the majority opinion and stated that the 'sole issue in this case is whether the due process clause of the Fourteenth Amendment prohibits this school board from making the decision to dismiss the teachers admittedly engaged in a strike and persistently refusing to return to their duties.' (12, p. 206).

More important, the court found that there was no evidence in the record to show that the school board members had any personal or financial stake in the decision to fire the teachers and there was nothing in the record to support charges of personal animosity. Even the Wisconsin Supreme Court found that the board members were 'dedicated public servants, trying to provide the district with quality education ... within its limited budget.' This was demonstrated by the repeated efforts of the board to urge the teachers to return to work, including an invitation contained in the letter of dismissal. According to the High Court, the teachers' position in this case boiled down to the argument that mere familiarity with the facts gained by the school board during its negotiations with the teachers is sufficient to render the board ineligible to decide whether teachers should be fired for engaging in an illegal strike. The Court countered this by emphasizing that the school board had the statutory responsibility to negotiate with the teachers and also had a statutory responsibility to make decisions regarding the employment of teachers. The Supreme Court found that the mere fact that the school board carried out the first of these statutory responsibilities does not mean that a court can strip the board of the latter responsibility. Only if
teachers show that the board cannot act in accordance with due process because of its prior involvement in negotiating can a court hold that the Fourteenth Amendment renders a school board ineligible to carry out its responsibilities to make decisions regarding the employment and dismissal of teachers (12, p. 206).

The Hortonville case is noteworthy because of what the High Court did not do. The present decision preserves the status quo regarding the power of school boards to fire striking teachers. But an affirmance of the Wisconsin Supreme Court opinion would have had significant ramifications for collective bargaining in education throughout the nation. It would have severely limited the power of a school board to discipline teachers engaged in an illegal strike (12, p. 207).

Some other cases dealing with strikes by teachers are:

Board of Education v. Albert Shanker, 283 N. Y. S. 2d 432, 1967, in which a

New York court determined the tactic of 'mass resignations' was in essence a strike, and the case of Pinellas C. C. T. Teachers' Assn v. Bd. of Pub. Instrr., (214 So. 2d 34, Fla., 1968) involved teachers in Florida who 'refused to start work in the Fall, but still laid claim to their jobs, the court held they could not retain their rights as teachers while on strike from their positions' (20, p. 181).

Strikes are not legal, but teachers do have the right to join unions. It is clear, then, that teachers have a constitutionally protected right to join associations and to affiliate with the NEA, the AFT, or other employee associations. Whether or not they should do so is not a question for the courts but for the political and educational judgement of teachers themselves. But while the legal right is firmly established, it would be a mistake to conclude that this is no longer a controversial area in our culture. There are still many communities where school
boards and administrators view the organizational activities of teachers with great disfavor. It is probable that many a non-tenured teacher is not reappointed because of his or her vigorous participation in such organizational activities, but the grounds stated, if any, relate to his teaching effectiveness, his classroom control, or some other acceptable basis for non-reappointment. Without proof of the real grounds for dismissal, the courts can do nothing. Boards and administrators should realize, however, that such actions "violate the spirit of our Constitution, eroding everyone's civil rights, including their own" (7, p. 117).

An article in The American School Board Journal pointed out that even though the A.F.T. and N.E.A. have split over the type of collective bargaining bill each wants to have passed, each does want to have a law passed. The article points out that

The rewards go a ways beyond what you'd expect—they include, indeed, the use of federal power to force school boards into collective bargaining, and they sanction strikes under a number of circumstances. But the sweetest ingredient in the pot for the unions is the fact that the proposed federal collective bargaining laws would have the twin effects of (1) establishing the federal government as the final arbiter in labor disputes between teachers and school boards, and (2) of forcing boards to bargain matters of educational policy with their employees (14, p. 13).

Another problem concerning unions occurred in Wisconsin:

Wisconsin has a law requiring open public meetings by school boards and another prohibiting school boards
from negotiating with individual teachers if an exclusive bargaining agent has been elected. These two laws came into conflict with constitutional overtones, in an unusual case decided by the U. S. Supreme Court last December 8. The case, known as City of Madison Joint School District No. 8 v. Wisconsin Employment Relations Commission began in 1971 when Madison Teachers, Inc., an affiliate of the NEA, was engaged in contract negotiation with the Madison Board of Education. One of the contract proposals offered by the MTI was the so-called 'fair-share' or 'agency fee' requirement, by which all Madison teachers -- whether or not MTI members -- would have to pay MTI dues to defray the costs of collective bargaining (11, p. 572).

Al Holmquist, a non-union teacher, opposed the proposal. The case went to the Wisconsin Supreme Court and finally to the U. S. Supreme Court. The U. S. Court reversed the decision of the Wisconsin Supreme Court. In the High Court's opinion, collective bargaining

... not only prohibited people like Holmquist 'from communicating with their government,' particularly since nearly every issue relating to the schools could be subject to collective bargaining, but 'would seriously impair the board's ability to govern the (school) directly'.

The Supreme Court's decision in this case can be construed, depending on one's point of view, as either a landmark for freedom of speech or a critical defeat to the teacher unions (11, p. 572).

It comes down to the fact that it is very difficult for teachers to form strong unions. Since it is illegal for teachers to strike and with the decision in the Wisconsin "fair-share" case it is concluded that there is not much power behind the union. For the union to have the weight to get legislation passed, teachers need to be more supportive.
Classroom Practices

Sometimes in the course of teaching a particular concept, the method a teacher uses is questioned. In this event, charges are sometimes made against the teacher and a judgement has to be made as to whether his method is acceptable. Besides the method of teaching, sometimes a particular article or subject is questioned as to whether it is appropriate for the age level and the concept being taught. A teacher is sometimes faced with the responsibility of justifying the article or subject matter used in class, and the courts have to make a decision as to whether the material is appropriate. Often the decision depends on how the material was used.

Another problem related to the freedom to teach for the public school teacher concerns words or phrases which may be termed obscene. The courts, in general, conclude that the context of how the words or phrases are used is the key to interpreting whether they are obscene or not. The 1969 case of *Keefe v. Geanakos*, 418 F. 2d 359 (1st Cir. 1969), ultimately decided in favor of an English teacher who had assigned a controversial article from the *Atlantic Monthly*.

The article -- a discussion of dissent, protest, radicalism, and revolt -- contained repeated references to the word 'mother-fucker.' The teacher discussed the article and the word and explained the word's origin and context and the reasons the author had included it. Any student who found the assignment personally distasteful was given the option of having an
alternative one (23, pp. 28-29).

The United States Court of Appeals concluded that the article was "in no sense pornographic, but was 'scholarly thoughtful, and thought provoking.'" (23, p. 29). "The question in the case is whether a teacher may, for demonstrated educational purpose, quote a 'dirty' word currently used in order to give special offense, of whether the shock is too great for high school seniors to stand." (2, p. 72). "... the court of appeals expressed concern about the general chilling effect of permitting such rigorous censorship and concluded that principles of academic freedom embodied in the Constitution barred the teacher's dismissal " (23, p. 29).

In the case of *Mailloux v. Kiley* (1971), the court of appeals said: "Free speech does not grant teachers a license to say or write in class whatever they may feel like..." Rather, "the propriety of regulations or sanctions must depend on such circumstances as the age or sophistication of the students, the closeness of the relation between the specific techniques used and some concededly valid educational objective, and the context and manner of presentation " (23, p. 31).

Secondary school teachers must use logical and good judgement in teaching issues and concepts in the classroom. Any topic which could be considered controversial should be discussed with school authorities before it is taught.
This could prevent an unnecessary law suit. If the matter is approved, the teacher should also use good judgement in how the material is to be presented. A guideline or test a teacher can give himself or herself in deciding upon questionable material is as follows:

(1) Do you have a valid educational objective in using the material in question? (2) Is the material suited to the age and maturity of the students on whom it is being used? (3) Does the board of education have a policy preventing the use of this material? (21, p. 87).

A teacher should also present different sides of controversial issues regardless of his or her opinion. The purpose of the public school teacher is to educate and teach students to think, and this can be done by giving the students information and letting them arrive at their own conclusions.

Student Rights

Teachers not only are responsible for knowing their own rights, but also need to know the rights of their students. Students' rights have become more of a problem in the past few years. Students' rights increased in the 1960's along with rights for other groups, and since that time there have been many cases in the courts involving students' rights. Certain corrective measures for students involve certain steps or procedures, and if these steps are not followed the student's right or rights have been infringed upon. In many cases this makes the teacher's job more complex.
Recently, the U. S. Supreme Court capped nearly a decade of agitation for student rights by ruling in the case of Goss v. Lopez that pupils were entitled to the same rights of due process as their parents and other adults. In very practical terms, Lopez means that before any serious disciplinary action can be taken against a youngster in school, a hearing must first take place to determine guilt or innocence (1, p. 460).

Some of these rights which protect students also make the teacher's job more complex and teachers find it wise to use discretion and good judgement when dealing with students. Some of the topics to be included in this section include: defamation, discipline, suspension, civil liberties, hair and dress codes, personal property, distribution of leaflets, barring married students, competency and personality testing, wearing of buttons and armbands, fraternal organizations, newspapers, and the segregation of handicapped students.

Lawsuits may originate over coffee in the teacher's lounge as easily as an unsupervised playground. Words spoken in haste or in moments of despair may result in the teacher becoming a defendant in a suit for defamation that will force payment of damages or determination in a trial that the statements made were true (26, p. 78).

Teachers face the problem of defamation even by making comments in haste in a moment of irritation. There are two types of defamation a teacher can be accused of:

Slander is the legal term assigned to oral communications in which a speaker wrongfully defames or maligns the character of a third person, which communication brings about a lessening of opinion regarding that third person in the mind of the listener. Libel is the legal term for written defamation (26, p. 78).
A teacher needs to keep in mind that all uncomplimentary remarks about students are not grounds for defamation because defamation is the case only when the remarks are not true. The best defense a teacher can have is to say only what he or she personally knows to be true. Libel is considered more serious than slander because the words are of a more permanent nature.

The Buckley Amendment is important to the individual teacher because previously confidential files are now open to public and parent. A teacher's license to write anything about a student - that whatever is written will be cloaked in confidentiality - no longer exists. Teachers must remember that what they write may be read by parent, student, lawyer, and jury. So teachers must be prepared to prove statements factual and that suggestive comments of a seemingly defamatory nature are true. The law places the burden of proving the truth of statements upon the person who makes them (26, p. 83).

Therefore, a teacher must be careful in statements he or she writes about a student because the permanent file is kept in the office for each student containing statements written by teachers. These files are open to a number of different people; therefore, a teacher needs to be careful and not write statements in the heat of anger.

Since the passage of the Buckley Amendment, a teacher also needs to be concerned with when it is ethical to reveal student's confidences to a third party.

The National Education Association addresses this point in its Code of Ethics. Principle I is titled 'Commitment of the Student' and reads, in part:
In fulfillment of the obligation to the student, the educator-
Shall not deliberately suppress or distort (information about) the student's progress.
Shall not intentionally expose the student to embarrassment or disparagement.
Shall not disclose information about students obtained in the course of professional service, unless disclosure serves a compelling professional purpose or is required by law (24, p. 682).

The problem of defamation and keeping confidences is not the only problem teachers face. The public school teacher also has the responsibility to discipline the students in his or her charge because of the legal standing of loco parentis. Discipline must be related to school activities and follow the specified guidelines of the local school authorities. Teachers must set standards, judge as to if these standards are being met, enforce these standards and at the same time make sure the constitutional rights of the students are not violated.

The teacher must also follow the discipline practices of the school district of which he or she is employed and the methods of discipline which may be acceptable to one school district may not be acceptable to another district. As an agent of the state and employee of the school district, a teacher derives his or her powers directly from the board of education, and must not overstep the boundaries of these powers. A banner year for student discipline cases was 1975, and the following paragraphs describe some of these cases and their outcomes.

In the case of Goss v. Lopez (January 1975) the
Supreme Court ruled a student facing suspension for any appreciable length of time is entitled to at least three basic minimums of due process:
(1) right to know reason for suspension
(2) right to learn nature of evidence
(3) right to tell his or her side of story
If suspension is to be extended over a school week (states vary on this), the student is entitled to a hearing. It is the duty of the school officials to set up the hearing and notify the student of the time and place and what the charges will be (20, p. 86).

In the case of Wood v. Strickland (February 1975)

two of three sophomore girls who had been summarily expelled from school for spiking the punch at a school function sued the school board and superintendent, as individuals, claiming lack of due process. The court, in ruling, declared students facing expulsion are entitled to the full panoply of procedural rights, including the right to face their accusers, cross-examine witnesses, introduce witnesses of their own, be represented by counsel, and to appeal. School 'officials', including teachers, may be held legally and personally liable in monitory damages if they knew, or should have known, that what they were doing under the color of state law would deprive an individual of a civil right (20, p. 87).

The Civil Rights Act of 1871 (Reconstruction measure)

Section 1983, in part reads

Any person who, under the color of any law, statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress (42 U. S. C. Sec. 1983).

Persons who collectively deprive another person of a civil right are considered 'co-conspirators' under the Civil Rights Act of 1871 and may plead neither governmental immunity nor corporation liability as a defense (20, p. 87).

In the case of Baker v. Owen (October 1975) the
Supreme Court held that the "North Carolina statute permitting teachers to paddle children was not unconstitutional" (20, p. 87). Similar to this ruling is the ruling in *Ingram v. Wright* (April 1977) in which the Supreme Court held "that corporal punishment does not violate the Eighth Amendment. Parents who believe the punishment to be excessive have a means of relief: a lawsuit for assault and battery against the perpetrator" (20, p. 87).

The students are awarded civil liberties by the court the same as other citizens of the United States even though they are not of legal age.

The state, according to the Fourteenth Amendment, may not deny to any person equal protection of its law, in depriving a person equal protection of its law, in depriving a person of life, liberty, or property. The Supreme Court has held that the right to go to school is both a liberty and a property right guaranteed under the Fourteenth Amendment. Thus, school officials may not deprive a student of the right without first giving the student his or her day in court (*Wood v. Strickland*, 955 U. S. 565, Ohio, 1975). Earlier, the court had held that 'due process of law is not for adults alone,' and districts may not maintain a double standard, one for students, the other for adults (*In re Gault*, 87 S. Ct. 1428, Ariz. 1967). Two years later, the Court further strengthened this doctrine in *Tinker v. Des Moines Sch. Bd.* (393 U. S. 502, Iowa, 1969), by ruling that the district had denied children who wore black armbands in school to protest the war in Vietnam the civil right of freedom of expression under the First Amendment (20, pp. 127-128).

Hair and dress codes are another matter which challenges the civil liberties of students.

Ordinarily, the less complicated the dress code, the more changes it has to pass constitutional muster.
In *Jacobs v. Benedict* (311 N. E. 2d 898, Ohio, 1974), the court said that 'hair regulations are not actually necessary for the government of the schools. Moreover, there is not, in point of fact, evidence that such regulations serve a useful purpose.' Another court ruled that 'school regulations of whatever nature, must bear some reasonable relationship to the purpose of compulsory school attendance, education in the broadest sense of the term (Grabber v. Kniola, 216 N. W. 2d 925, Mich., 1974). An Idaho dress code which prohibited female students from wearing slacks, pantsuits, or culottes was held to be in excess of the school board's authority since the board had not shown that such dress was disruptive, nor that the code bore a reasonable relationship to the educational process (Johnson v. Joint Sch. Dist., 508 P. 2d 547, Ida., 1973) (20, pp. 80-81).

Among the cases related to school dress codes, a great many of them are related to hair styles.

In the first case reaching a court of record *(Leonard v. School Comm. of Attleboro*, 349 Mass. 704, 212 N. E. 2d 468 (1965) parents contended that a regulation which bars a student from attending classes solely because of length or appearance of hair is 'unreasonable and arbitrary, since these matters are in no way connected with the successful operation of the public school.' They further contended that 'the challenging ruling is an invasion of family privacy touching matters occurring while he is at home and within the exclusive control of his parents.' The court refused to pass upon the wisdom or desirability of the school regulation, but nevertheless responded to the parent's contention by stating: So here, the domain of family privacy must give way in so far as a regulation reasonably calculated to maintain school discipline may affect it. The rights of other students, and the interest of teachers, administrators and the community at large in a well run and efficient school system are paramount...the discretionary powers of the committee or board, and the courts will not reverse its decision unless it can be shown it acted arbitrarily or capriciously (26, pp. 24-25).

Since this first case involving hair styles more than one hundred cases have been litigated and about one-half of these cases have been decided in favor of keeping the school
regulation and the other half have been decided in favor of the student.

In general, punitive action against students for violating a hair style regulation is unconstitutional unless positive proof is given to show that it is: (1) disruptive (Dawson v. Hillsborough County, Fla. School Bd., 322 F. Supp. 286 (Fla. 1971)); (2) unsanitary (Turley v. Adel Community School Dist., 322 F. Supp. 402 (Iowa 1971)); or (3) dangerous (Lambert v. Karushi, 322 F. Supp. 326 (W. Va. 1971)).

In a case (Pound v. Holladay, 322 F. Supp. 1000 (Kiss. 1971)) which summarizes much of the litigation regarding hair styles, a United States District Court found that: The great majority of the cases are recent and for the most part stem from the holding of the Supreme Court of the United States in Tinker (26, pp. 25-26).

Much to the relief of the courts, the issue of hair styles has almost ceased to be a problem because long hair is generally accepted by society, including the public schools.

Another recent problem concerning students is the use of drugs, and in order to curtail that use, sometimes student's personal belongings need to be searched. Then comes the problem of which items are legal to search, which are not and under what circumstances. An article in Phi Delta Kappan has these comments about school lockers.

Custodians often open lockers merely to view such contents as pin-up pictures. Lockers are opened without consent by the assistant principal when a student is suspected of having stolen or illegal goods in the locker. Lockers are also opened and searched when there is a bomb threat (16, p. 680).

"Although the concept of *in loco parentis* has been limited by the United States Supreme Court (*In re Gault*, 387 U. S. 1, 1967), courts continue to hold that school districts have the right to make a reasonable search of a student's locker" (26, p. 186). *Phi Delta Kappan* further points out:

Searches of school lockers have been upheld on the basis of the school's *in loco parentis* role and/or the fact that lockers belong to the school. A recent state supreme court decision has upheld an assistant principal's search of a student which resulted in the student's criminal conviction. Although case law continues to develop in this area, it appears that in many jurisdictions a student, and probably his car, may be searched if there is a reasonable suspicion of the presence of deleterious items. Searches should be conducted in a manner which insures that students are not whimsically stripped of personal privacy nor subjected to petty tyranny (16, p. 681).

Even though the courts have held that a principal has the right to search lockers, this does not apply to all items the student possesses. For example does a teacher or principal have the right to search a student for suspected contraband?

Only when there is reason to believe that the student has contraband concealed on his person, or where there is justifiable "plain view" cause. The Georgia Supreme Court refused to suppress, in a pending criminal prosecution, evidence of possession of marijuana found upon a student by an assistant principal conducting a personal search, not without cause but with less that enough cause for a search warrant required of a law enforcement officer (*State v. Young*, 216 S. E. 2d 586, 1976). And seizure of exposed leaflets which contained false information that classes were cancelled was held justified where they were in plain view and seizure did not abridge the student's constitutional rights (*Speake v. Grantham*, 317 F. Supp. 1253, Miss., 1970). Also where a
principal was informed by the chief of police that certain students would be carrying marijuana into school, the principal was within his rights in searching them bodily for suspected contraband (State v. McKinnon, 558 F. 2d 781, Wash., 1977) (20, p. 68).

In addition to the student's person, what is the law concerning the right of school personnel to search a student's automobile?

...not without a warrant, unless, of course, some contraband is in 'plain sight.' Even though the student's car is in the school parking lot, it is private property and a warrant must be issued before it can be searched. But if there is probable cause to suspect something (car is weaving; it is a stolen car; car seems central to suspected drug traffic), a warrantless search may be permitted. The Fourth Amendment does not outlaw all searches, only unreasonable searches and seizures. In one instance, a student was driving without a license, whereupon the police searched the vehicle and found dangerous drugs. The Supreme Court upheld (6-3) the search as constitutionally sound. 'If there is probable cause to take a person into custody,' said Justice William Rehnquist for the majority, 'the fact of lawful arrest establishes the authority to search.' However, since school personnel ordinarily do not make arrests (but can make a citizen's arrest under extreme circumstances), searching a student's car usually requires a valid search warrant' (20, p. 69).

Sometimes teachers get the idea that if they cannot search the student, then what about requiring a student to empty his or her pockets?

The courts are not in agreement on this point. In Texas, a principal got a tip that a student was in possession of marijuana. Calling the boy into his office, the principal requested him to empty his pockets; upon being informed that his father would be called if he did not comply, the boy complied. The procedure produced two marijuana cigarettes, marijuana and some marijuana seed. No force was used and the father later said he would have done the same (Mercer v. State of Texas, 450 S. W. 2d 715, 1970). The court allowed the search on the ground that the
principal is responsible for discovering and bringing under control drug traffic in the school. But where a uniformed school security officer who was searching for a stolen watch asked a boy to empty his pockets, the court held he had insufficient cause to search the boy and evidence obtained thereby (drugs) was not admissible in court (People v. Bowers, 339 N. Y. S. 2d 783, 1973) (20, pp. 70-71).

Students wishing to speak or distribute leaflets at school must conform to the school routine and speaking should be done at a reasonable time and in the space and manner restricted by the school. The rules apply for distributing leaflets, and it is up to the student to investigate and find out the proper method as prescribed by his or her school.

The barring of married students from school is not the problem it once was. At one time, married students were not allowed to attend school because the schools did not want to support teenage marriages. The first Texas case involving deprivation of married students was Kissick v. Garland Independent School District, 330 S. W. 2d 708 (Tex. Ct. App. 1959).

The facts of the case reveal that Kissick, a football player, sought to restrain enforcement of a board resolution which provided that 'married students be restricted wholly to classroom work and that they be barred from participating in athletics.' Among the contentions made by Kissick was that (1) the resolution in question was arbitrary, discriminatory, and unreasonable, and (2) it was violative of public policy in that it penalized marriage.

It was 'admitted' that physical education is a required course of the school; the playing of football being sufficient to obtain credit for that compulsory course; also that the resolution was passed, in the main, to
discourage juvenile marriages among students..."
Nevertheless, the Texas court upheld the hoard regulation. Apparently the court placed considerable weight upon the findings of a PTA study indicating 'ill effects of married students participating in extra-curricular activities with unmarried students' (2, pp. 151-152).

The courts have become more lenient in rulings on married students, as illustrated in *Bell v. Lone Oak Independent School District*, 507 S. W. 2d 636 (Tex. 1974).

That the state courts will fall in line with the federal courts is evidenced by the last court decision reported on the issue at the time of this writing. In the instant case a student was successful in having enjoined the enforcement of a school regulation designed to prohibit married students from participating in extracurricular activities.

The portion of the litigated regulation stipulated that: The married student cannot be elected to an office, or if already elected, must resign; ...cannot participate in athletics, pep squad, class plays, social events such as junior-senior banquet, football banquet, etc.; ... Although the court was reluctant to deal with this much litigated issue again, it did, and ruled decisively in favor of the student. In so doing, the court declared:

The quoted rule of the Lone Oak Independent School District sets up a classification of individuals to be treated differently from the remainder of the school students without being designed to promote a compelling state interest ... Appellees have not shown a clear and present danger to the other students' physical and emotional safety and well-being, or any other danger to the students, faculty, or school property, nor any substantial or material danger to the operation of the public schools by allowing married students to participate in athletics. The burden of proof is upon the school district to show that its rule should be upheld as a necessary restraint to promote a compelling state interest. It is the public policy of this state to encourage marriage rather than living together unmarried. To promote that public policy, we have sanctioned
by statute the marriage ceremony ... and through the years have jealously guarded the bonds of matrimony. It therefore seems illogical to say that a school district can make a rule punishing a student for entering into a status authorized and sanctioned by the laws of this state. We are not unmindful of the decision in Kissick ... involving a situation very similar to the one in this case. There the court held that it was not arbitrary, capricious, discriminatory, or unreasonable to bar married students from participating in athletics or other extracurricular activities. Our holding in this case is in direct opposition to Kissick, ... We have chosen not to follow the decision in Kissick ... because we feel that the rule there should be abandoned for one that is non-discriminatory and which does not violate constitutionally guaranteed rights ... (2, p. 160-161).

Although most school districts allow married students to participate in extra-curricular activities, and no districts can expell a married student simply because he or she is married, pregnancy is treated differently.

Pregnant women (married or unmarried) may be reasonably restricted in their attendance at schools, although recent trends indicate that this practice is regarded as discriminatory and prohibited unless home study or special school alternatives are provided (26, pp. 130-131).

In many schools, pregnant girls are allowed to remain in school until their condition may become hazardous to their welfare (going up and down stairs, etc.). When this occurs the girl is often put on a homebound program where she receives instruction at home by a certified teacher. With all of the restrictions involved with students' rights, teachers sometimes become afraid to risk any procedures they are uncertain of.
From time to time, different types of tests are administered to students. Counselors are then faced with the problem of which types of tests are reasonable to give without violating the student's personal rights? For the public schools to administer in-depth testing, there are certain procedures a school has to follow.

School psychologists need not obtain parental consent to administer school tests which do not probe deeply into the inner mind of the child. They are expected, however, to obtain parental permission where in-depth testing is to take place. Failure to do so may result in an action for invasion of the child's privacy.

Some states have enacted legislation outlining the extent to which the school may administer brain-probing tests. In the absence of such a statute, it is wise to work closely with parents in administering psychiatric or other in-depth tests because of the legal hazards involved (20, p. 60).

For a test to be considered constitutional, there are some guidelines that the test must meet.

In Griggs v. Duke Power Co. (401 U. S. 424, 1971), the Supreme Court dealt with the problem of pre-employment tests. The standards applied there have now been transferred to educational problems. To meet constitutional constraints, the schools must: 1) show that the test being used has differential validity, that is, it has separate validation scores for all minorities on which it is used; 2) bring the level of confidence up to .05 level, which is the same as saying that the probability of obtaining the same test results through mere chance must be no greater than one in twenty; 3) demonstrate that the testing procedure contains an adequate sample; and 4) demonstrate that the test has been administered to all testees under uniform testing conditions which correlate with the test conditions under which the test was validated (20, p. 63).

Another question concerning testing is: Do some states have 'minimum competency testing requirements' for
graduation from high school?

Most of the states now have such legislation, but the 'minimums' vary considerably from state to state, depending on what the legislature considers 'minimal.' What competencies will be measured and how will you measure them? Are the standards for schools or for students? What do you do with the incompetent students and schools? Lacking answers to these questions, it seems that parents of individual students will continue to bring legal action against districts and individual teachers for 'malpractice' where students do not learn enough of the basics to satisfy the parents. Other states have so-called 'accountability' laws which require that administrators and teachers negotiate what shall be taught in the classroom and how the teacher shall be evaluated (20, p. 67).

The question of students wearing buttons and armbands is another civil right of students that has been in question. Are these items legal to wear at school? An article in Phi Delta Kappan points out:

...activities such as wearing various insignia with/without captions, selling 'underground' newspapers, and depicting teachers or administrators in uncomplimentary terms must be shown to produce 'material and substantial' disruption before they can be regulated (16, p. 680).

The question of fraternal organizations on the high school level has caused concern among students, parents, and the schools. The controversy in this matter has been so great that it has often culminated in litigation in the courts. In the case of Welsey v. Eibling, 174 Ohio St. 296, 188 N. E. 2d 797 (1963), the Court of Appeals of Ohio stated:

...The rationale of these decisions is that a board of education is vested with broad discretionary powers in adopting a policy prohibiting affiliation when such regulations do not deprive the pupils or
parents of any natural or constitutional rights or privileges; that, when in the opinion of the school authorities, such organizations have a deleterious influence and are found to be inimical to the best interest of the school, a board is authorized, even in the absence of a specific statute granting such power, to adopt regulations prohibiting them; and that such power is inherent in a board of education (2, p. 162-163).

There have been several other cases which support this decision. There has been litigation going in both directions, but in general the courts support the theory that if these secret organizations interfere with the function intended by the public schools, then the school board does have the power to penalize the students involved. The school board also has the right to place certain limitations on the school newspaper.

Freedom to print the truth is the rule, but there are exceptions. Boards may limit after the fact but not before under these conditions: 1) substantial disruption or material interference with the school program; 2) obscenity and pornographic publications; 3) vulgarity, four-letter words which lead to disruption; 4) defamation, such as libel; and 5) invasion of the privacy of others. Also, school officials may regulate student publications and establish rules on prior review procedures, as well as set standards regulating times, places and manner of distribution of student-produced newspapers, both official and underground " (20, pp. 156-157).

Another student's rights problem is that of misunderstanding mainstreaming. In our public schools as well as our culture, there are certain people who are not like the rest of the people. For a long time these people were kept in attics and closets. However, today, the courts and the public schools are trying to treat these
people the same or as close to the same as everyone else.

Beginning with the PARC case in 1972, the courts have uniformly upheld the right of a handicapped pupil to be admitted to the public schools no matter how severe the handicap (Pennsylvania Association for Retarded Children v. Commonwealth, 343 F. Supp. 279, Pa., 1972). "All mentally retarded persons are capable of benefitting from a program of education or training", said the court in a consent decree. "Placement in a regular classroom in public school is preferable to placement in a special education class, and placement in a special public school class preferable to placement in any other type of program of education or training. Any district which provides free preschooling to normal children under six is prohibited from denying such schooling to retarded children under six." A similar ruling was made in Mills v. Bd. of Educ. of D. of C. (348 F. Supp. 866, D. C., 1972) (20, p. 62).

An article in Phi Delta Kappan reports of one student's experience in mainstreaming. Gregory, the handicapped student, is a dwarf and has other defects which prevent him from walking long distances unaided. The results of mainstreaming for Gregory is that mainstreaming has given Gregory confidence that he can function in the real world. He is independent within his physical limitations and relates well to his peers. I have often been told and have observed that many students find his lack of self-pity and his ability to cope an inspiration to themselves. Gregory has learned to look after himself and to reach out for help when he needs it (17, p. 528).

This is not to say there are no problems involved with mainstreaming. Indeed there are. Many times it means extra work and hours spent working with the student by the teacher. Sometimes it causes problems with trying to manage the rest of the class. However, when one hears about children like Gregory, the positive effects seem to far
outweigh the negative.

In conclusion, it would seem that a choice must be made, if we, as a nation, are determined to grant full adult rights to students, then we must return moral and ethical training to the 'private sector,' where adults still have the power to enforce their views. For instance, while it may be illegal to physically abuse a child, no court has forbidden a parent to spank a child for disciplinary reasons or to expel him or her from the home. If we are not prepared to do this, then we must increase, not decrease, the authoritarian powers residing in the schools. Carefully-administered corporal punishment must become more common, other disciplinary tools must be created or reinstituted, and a more formalized teacher-student relationship must be rebuilt. Such 'reforms' are not intended to make the schools evil places in which to learn. Rather, they are attempts to return the 'hardware' of parenting to school authorities. If we are willing to accept the image of a just, but firm, parent, then we should have the same confidence in our educators (1, p. 462). Court decisions over the past two decades show that the courts have consistently rendered decisions which increase the protection of the individual. Since many of these decisions concern how educators relate to students, educators find themselves in an environment fraught with emotions and misunderstandings (3, p. 185).

Custodial Employee's Liability

Public school teachers are placed in the position of being liable for certain conditions which might occur when students are in their charge. The question of are other school employees placed in the same position of liability as teachers comes about. (These other school employees include custodial and cafeteria workers.) The answer to this question is "yes", because the same laws for tort liabilities apply to all school employees whether the employee is a superintendent, principal, custodial worker,
cafeteria worker, bus driver, or teacher. If the employee is negligent, then he or she can be held liable for the action.

Legal Relationships

There are certain legal relationships between the school, the administration and the state, and one of these relationships is the qualifications a person must have for teacher certification. This varies from state to state, and so the teacher needs to check the qualification required by the state in which he or she resides. Also if a teacher should move from one state to another, he or she needs to check the qualifications of the new state because in most cases the teacher will need additional course(s) to be certified in the new state.

Copyright Law

Some changes in the copyright law came about in 1978, and many teachers are unaware of the legality of copying certain information for the purpose of distribution in their classes. This section deals with the legality of duplicating certain materials and the conditions of their distribution. The first major revision of the U. S. Copyright Law since 1909 was signed into law by President Ford on October 19, 1976.
Fair Use is the source of this protection. It permits reproduction for purposes of teaching, including multiple copies for classroom use. While this sounds clear-cut, it is not. There are four factors to consider: 1) purpose and character of the use, including whether it is for commercial use or is for non-profit educational purposes; 2) nature of copyright work; 3) amount and substantiality of the portion of the work as a whole; 4) effect of the use upon the potential market for or value of the copyright work (25, p. 772).

Since the copyright law is not clear in all situations, the teacher is faced with the problem of making mistakes in copying materials. If a teacher should make a mistake, what are the penalties?

In the new law, the maximum an innocent infringer, who was not aware and had no way of knowing his or her act was a violation of copyright, can be fined is $100. Willingful infringement of copyright for profit has a maximum fine of $10,000 per work (25, p. 774).
Conclusions

If a person were to study only the civil rights possessed by teachers, and especially if he or she compared these rights with the limitations teachers have had throughout history, he or she would think teachers have come a long way. True, teachers are allowed by law more personal and civil rights than ever before in history, but the problem for teachers is that students also have more civil rights. The same civil rights laws which give teachers more freedom, also give students more freedom. With the increase in rights that the students possess, the teacher is left in a vulnerable position. Never before in history have teachers and schools been so involved in legal suits, and it is a benefit to the teacher to know as much as he or she can about the laws concerning the public schools and his or her rights. Teachers should try to offer themselves as much protection against liabilities as they possibly can.
CHAPTER BIBLIOGRAPHY


16. LaMorte, Michael W., "What is Your School Law I. Q."
Phi Delta Kappan, LVIII (June 1976), 679-681.


CHAPTER III

PROCEDURE

This study investigated the awareness of public school teachers of the laws which relate to their profession. The teachers who participated in this study were the secondary teachers of the Lewisville Independent School District, which included the high school and three middle schools (Hedrick, Millican, and Delay Middle Schools). The study compared teachers' knowledge of the law on the basis of sex, years of teaching experience, teaching fields, position (teacher or administrator), grade level taught (Jr. High or High School), educational level (Bachelor's, Master's, or Ph. D.), age, and whether the teacher has had any prior courses related to school law (college class, conference, inservice, or readings of professional or legal articles).

Background of Population

The population of the city of Lewisville is varied due to its recent and rapid growth. Few high school and junior high students were actually born in Lewisville. The student body includes students from throughout the United States, with a large number of these students from the
northern states, as well as a number of foreign students from Europe, Asia, and South America. The businesses of Lewisville are supportive of the schools and students as evidenced by providing resource people who share their knowledge and skills with the students and by providing training stations for vocational students.

The Lewisville Independent School District consists of twelve schools, including one high school, three middle schools, and eight elementary schools. Two additional schools are in the process of being built, a second high school, and an additional elementary school. The Lewisville Independent School District presently employs approximately five hundred and fifty teachers, which are distributed as follows: high school, 150 teachers; middle schools, 150 teachers; and elementary schools, 350 teachers. The location of Lewisville (between Dallas and two major universities, North Texas State University and Texas Women's University) makes Lewisville a good location for teachers to live.

During the year of 1976, a committee of four Lewisville High School teachers sent out questionnaires, pertaining to the philosophy of education, to the high school teachers. Upon receiving the completed questionnaires and tallying the results, these four teachers were able to compile the philosophy and objectives of education for Lewisville High School. The document reads, in part, as
As the faculty and staff of Lewisville High School, we feel that the underlying philosophy of our educational beliefs and goals is to give each student, relative to the individual needs, the best educational opportunities possible. Our aim is to encourage each student to develop an appreciation of cultural, lingual, and lifestyle diversities that will prepare the individual to meet the changing conditions in American society, as well as those in the individual's life (1, p. 1).

The objectives of Lewisville High School covers several different areas. "Lewisville High School strives to further the development of each student's personal knowledge skills, to recognize each student's achievements according to the individual's ability, and to make each student a productive and responsible member of society" (1, p.2).

Some of the other objectives of Lewisville High School include

...helping students to develop an understanding of the needs and requirements for achieving efficiency in economic and occupational pursuits; help the students to develop an understanding of civic responsibilities and the principles of democracy; help the students to recognize and develop an understanding of good health and physical fitness habits; to help encourage students to develop cultural, language, and lifestyle awareness, as well as proficiency in personal and social relationships; and students develop the ability to constructively use their leisure time both scholastically and socially (1, pp. 2-4).

Instrument

The instrument (see Appendix A) which was administered to the teachers of the Lewisville Independent School District was a survey concerning school law, which was formulated by Sandra K. Burns, Ph.D., LLB, a specialist in
school law. The instrument consisted of sixty-seven items to be answered by the secondary school teachers of the district. The first eight items were designed to gain descriptive information only, and included sex, age, number of years teaching experience, teaching field, position, grade level taught, educational level of teachers, and if the teachers have had any learning experience related to school law. The remaining fifty-nine statements were related specifically to school law and were answered true or false. The statements were divided in the following manner: items 1-19 were related to civil rights concerning the school; items 20-28 also dealt with civil rights but were specifically directed toward teachers; items 29-31 were related to teachers' responsibilities; item 32 was concerned with teacher hiring procedures; items 33 and 34 were related to teacher unions and strikes; item 35 was related to classroom teaching practice; items 36-52 were concerned with the civil rights of students; item 53 was concerned with other school employee's liabilities; items 54-58 were related to the legal relationships of schools and teachers; and item 59 dealt with the new copyright law. These items were organized in this manner for the purpose of ease in reading and rating results. Each statement is documented with the source which upholds the decision (see Appendix B).

Before administering the instrument, it was pretested among ten teachers selected by the researcher. These
teachers were asked to read the survey and make suggestions and recommendations for possible revisions. The recommendations were taken into consideration and revisions in wording were made before the survey was administered.

Collection of Data

A letter explaining the purpose of the study and a request for co-operation in completing the survey, constituted the front page of the survey. The letter explained that the teacher's name is of no value to the study and therefore is not needed. The researcher also offered to make the results known to anyone who was interested once the study had been completed. The second page of the survey included the directions for completing the survey. The participant was asked to mark the appropriate answer on the survey for each of the eight personal questions and what he or she believed to be the correct answer for each of the fifty-nine legal statements. The surveys were delivered by the researcher to the campuses of the selected schools and placed in teacher's boxes. The surveys were distributed as follows: Delay Middle School-49 questionnaires, Hedrick Middle School-37 surveys; Millican Middle School-48 surveys; and Lewisville High School-153 surveys. The surveys were coded with a number in order that a follow up request could be made of the teachers not
returning the surveys within a two week period. All of the surveys were delivered to the middle schools on November 17, 1980, with the understanding they would be picked up on November 26, 1980. The surveys were delivered to the high school teachers on December 2, 1980.

Treatment of Data

After the surveys were scored for each individual, the overall percentages, as well as a breakdown of the ten subscales, were determined. Prior to administration of the instrument, it was decided by the researcher that 75-100 percent correct responses indicated the subject was highly aware of school law; 50-74 percent correct responses indicated the subject had an average knowledge of school law; and 49 percent or less correct responses indicated the subject to be below average in knowledge concerning school law.
CHAPTER IV

ANALYSIS OF DATA

The problem with which this study was concerned was that of determining the level of knowledge secondary public school teachers have of the laws which deal with education. An effort was made to determine if sex, age, grade level taught, years of teaching experience, major teaching area, level of education, and previous exposure to school law had an effect on the level of knowledge pertaining to school law that teachers possess. It was, furthermore, an attempt to determine if secondary public school teachers possess more knowledge in particular areas of school law.

The subjects used for the purpose of this study included secondary public school teachers from the three middle schools and the high school of the Lewisville Independent School District. Of the 288 surveys distributed, one hundred fifty-two were used in the study. The data was analyzed by computer as to overall percentages of responses, as well as broken down into individual categories. Exactly three-fourths (75%) of the subjects were female and one-fourth (25%) of the subjects were male. Teachers between the ages of 21 and 30 years of age
accounted for thirty-eight percent of the subjects, while almost forty-five percent were between the ages of 31 and 40 years, and the remaining subjects were over forty-one years of age. Slightly over ninety-five percent of the responding subjects were teachers and almost four percent of the subjects were administrators. Almost thirty-seven percent of the subjects taught in the junior high schools and almost sixty-seven percent taught in the high school. Almost thirty-two percent of the subjects have taught between five and ten years, with the next largest percentage (25%) having taught between ten and twenty years. Twenty-three percent of the subjects have taught between two and five years, almost sixteen percent have taught less than two years, and the smallest percentage (almost 5%) have taught more than twenty years.

In the category of area of teaching experience, the largest number of responding subjects was in the area classified as other, which accounted for slightly more than twenty percent of the responses. English teachers, comprising nineteen percent, followed next; then vocational teachers with almost eighteen percent; mathematics with sixteen percent; science with almost twelve percent; and art, social studies, and physical education each comprising less than six percent of the responding subjects. Almost sixty percent of the subjects had a Bachelor's degree and the remaining forty percent a Master's degree. The last
category regarding exposure to school law revealed that almost forty-seven percent of the subjects have had no training in school law. Almost twenty-six percent of the subjects have had a college class in school law, fifteen percent have read a professional or legal article(s), slightly over seven percent have attended an inservice on school law, almost three percent have attended a seminar on school law, and almost two percent have attended a conference on school law. These findings are reported in Table I.

---

**TABLE I**

CHARACTERISTICS OF THE SUBJECTS

N=152

<table>
<thead>
<tr>
<th>SEX:</th>
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<th>Percent</th>
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<td>Male</td>
<td>38</td>
<td>25</td>
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<td>21-30</td>
<td>58</td>
<td>38.2</td>
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<td>31-40</td>
<td>68</td>
<td>44.7</td>
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<tr>
<td>41-50</td>
<td>19</td>
<td>12.5</td>
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<tr>
<td>over 50</td>
<td>6</td>
<td>3.9</td>
</tr>
<tr>
<td>missing</td>
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<td>0.7</td>
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<thead>
<tr>
<th>POSITION:</th>
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<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teachers</td>
<td>145</td>
<td>95.4</td>
</tr>
<tr>
<td>Administrators</td>
<td>6</td>
<td>3.9</td>
</tr>
<tr>
<td>Missing</td>
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<td>0.7</td>
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</table>

<table>
<thead>
<tr>
<th>GRADE LEVEL TAUGHT:</th>
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<th>Percent</th>
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</thead>
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<td>Junior High</td>
<td>56</td>
<td>36.8</td>
</tr>
<tr>
<td>High School</td>
<td>95</td>
<td>62.5</td>
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<tr>
<td>Missing</td>
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<td>0.7</td>
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<table>
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<th>YEARS OF TEACHING EXPERIENCE:</th>
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<tr>
<td>Less than 2</td>
<td>24</td>
<td>15.8</td>
</tr>
<tr>
<td>2-5</td>
<td>35</td>
<td>23.0</td>
</tr>
<tr>
<td>5-10</td>
<td>48</td>
<td>31.6</td>
</tr>
<tr>
<td>10-20</td>
<td>38</td>
<td>25.0</td>
</tr>
<tr>
<td>-------</td>
<td>-----</td>
<td>------</td>
</tr>
<tr>
<td>More than 20</td>
<td>7</td>
<td>4.6</td>
</tr>
</tbody>
</table>

**AREA OF TEACHING EXPERIENCE:**
- English: 29 (19.1)
- Science: 18 (11.8)
- Art: 3 (2.0)
- Vocational: 27 (17.8)
- Social Studies: 9 (5.9)
- Physical Education: 6 (3.9)
- Mathematics: 25 (16.4)
- Other: 31 (20.4)
- Missing: 4 (2.6)

**EDUCATIONAL LEVEL:**
- Bachelor's: 91 (59.9)
- Master's: 61 (40.1)

**EXPOSURE TO SCHOOL LAW:**
- College Class: 39 (25.7)
- Seminar: 4 (2.6)
- Read professional or legal article(s): 23 (15.1)
- Conference: 3 (2.0)
- Inservice: 11 (7.2)
- None: 71 (46.7)
- Missing: 1 (0.7)

---

**General Findings**

The subjects were asked to respond to the survey by marking the statements either true or false. The subjects were instructed to place "+" beside the items which they believed to be true and "0" beside the items they believed to be false. The survey was divided into ten categories or subscales for ease of scoring. These subscales were divided as follows: nineteen statements pertaining to civil rights regarding public schools, nine statements concerning civil rights which apply specifically to teachers, three
statements concerning teacher responsibilities, one statement regarding hiring procedures for teachers, two statements pertaining to teacher unions and strikes, one statement regarding classroom practices, seventeen statements which dealt with student's rights, one statement regarding other school district employees, five statements concerned with the legal relationships of schools and teachers, and one statement which dealt with the new copyright law. The lowest and the highest number of correct responses to each of the subscales are reported in Table II.

---

**TABLE II**

**LEAST AND MOST CORRECT SUBSCALE RESPONSES**

*N=152*

<table>
<thead>
<tr>
<th>Subscale</th>
<th>Number of items</th>
<th>Mode</th>
<th>Number of least correct</th>
<th>Number of most correct</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Civil Rights</td>
<td>19</td>
<td>12</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>2 Civil Rights Pertaining to Teachers</td>
<td>6</td>
<td>6</td>
<td>0</td>
<td>9</td>
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<tr>
<td>3 Teacher Responsibilities</td>
<td>3</td>
<td>2</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>4 Hiring Procedures for teachers</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>5 Teacher Unions and Strikes</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>6 Classroom Practices</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>7 Students' Rights</td>
<td>17</td>
<td>10</td>
<td>1</td>
<td>13</td>
</tr>
<tr>
<td>8 School District Employees</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>9 Legal Relationships</td>
<td>5</td>
<td>4</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>10 Copyright Law</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

---
Six of the fifty-nine statements had a better than ninety percent correct response rate. Statement number 16, (It is clearly settled that children of illegal aliens have no right to attend public schools without paying tuition.) was the statement which was answered most correctly by the subjects. This statement was answered correctly by 145 (95.4%) of the subjects. The second most correctly answered statement was number 52, which states, "Public Law 94-142 states that a handicapped child may not be segregated inappropriately from his or her nonhandicapped schoolmates." One hundred and forty-two (93.4%) of the subjects answered this statement correctly. Two statements, numbers 18 and 26, were the third most correctly answered statements with 139 (91.4%) of the subjects answering these statements correctly. Number 16 states that: School districts that banned corporal punishment prior to the Supreme Court's approval will be forced to reinstate corporal punishment. Number 26 states that: For employment purposes pregnancy must be treated like any other temporary illness. Numbers 19 and 46 were the fourth most correctly answered statements, both with 137 (90.1%) of the subjects answering these statements correctly. Number 19 states that: School officials are liable for damages if they abridge the civil liberties of students. Number 46 states: Students wishing to speak or distribute leaflets at school must conform their pursuits to routine school activities and speak in public
places subject to reasonable times, space and manner restrictions. These findings are reported in Table III.

---

**TABLE III**

**MOST CORRECTLY ANSWERED STATEMENTS**

\[ N = 152 \]

<table>
<thead>
<tr>
<th>Statement Number</th>
<th>Number of correct responses</th>
<th>Percentage of correct responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>145</td>
<td>95.4</td>
</tr>
<tr>
<td>18</td>
<td>139</td>
<td>91.4</td>
</tr>
<tr>
<td>19</td>
<td>137</td>
<td>90.4</td>
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<tr>
<td>26</td>
<td>139</td>
<td>91.4</td>
</tr>
<tr>
<td>46</td>
<td>137</td>
<td>90.1</td>
</tr>
<tr>
<td>52</td>
<td>145</td>
<td>93.4</td>
</tr>
</tbody>
</table>

---

The most frequently missed statement was statement number 41 (Students have the legal right to have an attorney address the university hearing panel in their disciplinary cases), with five subjects (3.3%) answering it correctly. The second most frequently missed statement was number 43 (A student may be suspended for three days without giving the student notice of the reasons for suspension and without opportunity to be heard.) with ten (6.6%) of the subjects answering correctly. Statement number 39 was the third most frequently missed statement. It states that students can be forced to participate in compulsory flag saluting. Eleven (7.2%) of the subjects answered this statement correctly. Statement number 42, with 21 (13.8%) of the subjects answering it correctly, was the fourth most frequently
missed statement. Statement number 42 reads: In *Goss v. Lopez*, the court required schools to set up hearing procedures which students could use after they are suspended. The fifth most frequently missed statement is number nine (Individuals cannot sue under Title IX), with 23 (15.1%) of the subjects answering this statement correctly. These findings are reported in Table IV.

---

**TABLE IV**

**MOST FREQUENTLY MISSED STATEMENTS**

<table>
<thead>
<tr>
<th>Statement Number</th>
<th>Number of Correct Responses</th>
<th>Percentage of Correct Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>23</td>
<td>15.1</td>
</tr>
<tr>
<td>39</td>
<td>11</td>
<td>7.2</td>
</tr>
<tr>
<td>41</td>
<td>5</td>
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<td>42</td>
<td>21</td>
<td>13.8</td>
</tr>
<tr>
<td>43</td>
<td>10</td>
<td>6.6</td>
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</tbody>
</table>

Seventy-one subjects indicated they had no exposure to school law while eighty subjects indicated they had some exposure to school law (either a college class, seminar, conference, inservice, or had read a professional or legal article(s)). One of the subjects did not score this category on the survey, therefore it could not be used to score the results. The average number of correct responses for those with no exposure to school law was 34.5 or 58.6%, while those with some exposure to school law scored only slightly higher with an average of 34.98 or 59.2% correct.
The statements compiling the survey were divided into ten subscales for scoring purposes. The subscale which indicated the most knowledge of the subjects was subscale number 8, which dealt with employees of the school district, with an 87.5% correct response average. The second highest subscale was number 5, which dealt with teacher unions and strikes, with a 72.7% correct response rate. The subscale in which the subjects scored lowest was subscale number 10, which dealt with the new copyright law. Only 42.8% of the subjects answered this subscale correctly. The findings of the number of correct responses for each of the ten subscales plus the percentages correct are reported in Table V.

Prior to the administration of the instrument, it was determined that 75-100% correct responses indicated the subject was highly aware of school law; 50-74% correct responses indicated the subject to be of average knowledge of school law; and 49% or below indicated the subject to be below average knowledge of school law. Using the percentage correct in all ten subscales, only three subjects (2%) scored in the 75-100% range (highly aware), 131 subjects (86.2%) scored in the 50-74% range (average), and 18 subjects (11.8%) scored in the 49% range (below average).

The teachers responding to the survey, regardless of subject matter taught, scored close to the same percentage
of correct responses. The average percent correct was 57.73, with an average of 34.06 correct answers, for all teachers in the total of the ten subscales.

---

**TABLE V**

**CORRECT RESPONSE PERCENTAGE FOR THE TEN SUBSCALES**

N=152

<table>
<thead>
<tr>
<th>Subscale</th>
<th>Number of Items</th>
<th>Percentage Correct</th>
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<tbody>
<tr>
<td>1 Civil Rights</td>
<td>19</td>
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<td>2 Civil Rights Pertaining to Teachers</td>
<td>9</td>
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<td>3 Teacher Responsibilities</td>
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<tr>
<td>4 Hiring Procedures</td>
<td>1</td>
<td>46.7</td>
</tr>
<tr>
<td>5 Teacher Unions and Strikes</td>
<td>2</td>
<td>72.7</td>
</tr>
<tr>
<td>6 Classroom Practices</td>
<td>1</td>
<td>43.4</td>
</tr>
<tr>
<td>7 Students' Rights</td>
<td>17</td>
<td>51.9</td>
</tr>
<tr>
<td>8 School District Employees</td>
<td>1</td>
<td>87.5</td>
</tr>
<tr>
<td>9 Legal Relationships of Schools and Teachers</td>
<td>5</td>
<td>66.5</td>
</tr>
<tr>
<td>10 Copyright Law</td>
<td>1</td>
<td>42.8</td>
</tr>
</tbody>
</table>

Total 59 60.4

---

Four subjects did not check which subject area they taught, therefore these four surveys could not be included in the tabulation of the results. The teachers of physical education scored the highest correct answers with an average of 35.8 (60.8%) correct answers out of 59 statements.

The second highest percent of correct answers was scored by the teachers who checked the other classification, with a 35.6 (60.34%) correct response rate. Mathematics
teachers scored third highest with a 35.4 (60%) correct response rate. The group of teachers scoring the lowest correct responses was the art teachers with a 29.3 (49.66%) correct response rate. The findings are reported in Table VI.

---

**TABLE VI**

**OVERALL SUBSCALES ACCORDING TO SUBJECT MATTER TAUGHT**

\[N=148\]

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>N</th>
<th>AVERAGE #</th>
<th>% CORRECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>English</td>
<td>29</td>
<td>34.9</td>
<td>59.15</td>
</tr>
<tr>
<td>Science</td>
<td>18</td>
<td>32.6</td>
<td>55.25</td>
</tr>
<tr>
<td>Art</td>
<td>3</td>
<td>29.3</td>
<td>49.66</td>
</tr>
<tr>
<td>Vocational</td>
<td>27</td>
<td>33.9</td>
<td>57.46</td>
</tr>
<tr>
<td>Social Studies</td>
<td>9</td>
<td>34.9</td>
<td>59.15</td>
</tr>
<tr>
<td>Physical Education</td>
<td>6</td>
<td>35.8</td>
<td>60.68</td>
</tr>
<tr>
<td>Math</td>
<td>25</td>
<td>35.4</td>
<td>60</td>
</tr>
<tr>
<td>Other</td>
<td>31</td>
<td>35.6</td>
<td>60.34</td>
</tr>
<tr>
<td>Total</td>
<td>148</td>
<td>34.06</td>
<td>57.73</td>
</tr>
</tbody>
</table>

---

The vocational department scored the highest rate of correct responses in subscale 5, dealing with teachers unions and strikes, with a 79.5% correct response rate. The area vocational teachers scored the second highest percentage of correct responses was subscale 3, concerning teacher responsibilities, with a 73.33% correct response
rate. Subscale 8, dealing with school district employees, was the third highest percentage correct response rate, with 74% of the subjects answering this subscale correctly. Subscale 2, which deals with civil rights more directly related to teachers than to the general population, was the fourth highest percentage of correct answers with a 68.33% correct response rate. Subscale 9, concerning the legal relationship of schools and teachers, had a 56.2% correct response rate. Subscale 1, dealing with civil rights, had a 55.58% correct response rate by the vocational teachers, and subscale 4, concerning hiring procedures for teachers, had a 52% correct response rate. The remaining three subscales had less than 50% correct response rate. These findings are noted in Table VII.

The subscale in which the subjects were most highly aware was subscale 8, which deals with school district employees, with 87.5 percent of the subjects scoring the correct answer. The second subscale which was most often answered correctly was subscale 5, dealing with teacher unions and strikes, with 53.3% highly aware correct response rate. The third subscale with the third highest highly aware score was subscale 9, concerning legal relationships, with a 48 percent correct response rate. The subscale with the greatest below average responses was subscale 10, dealing with the copyright law, with a 57.2% response rate. The second greatest below average subscale was subscale 6,
concerning classroom practices, with a 56.6% response rate. The results of the distribution of the highly aware, average, and below average responses broken down into the ten subscales are reported in Table VIII.

```
TABLE VII

VOCATION TEACHERS' RESPONSES

N=27

<table>
<thead>
<tr>
<th>SUBSCALE</th>
<th># CORRECT</th>
<th>% CORRECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10.56</td>
<td>55.58</td>
</tr>
<tr>
<td>2</td>
<td>6.15</td>
<td>68.33</td>
</tr>
<tr>
<td>3</td>
<td>2.26</td>
<td>75.33</td>
</tr>
<tr>
<td>4</td>
<td>.52</td>
<td>52.0</td>
</tr>
<tr>
<td>5</td>
<td>1.59</td>
<td>79.5</td>
</tr>
<tr>
<td>6</td>
<td>.44</td>
<td>44.0</td>
</tr>
<tr>
<td>7</td>
<td>8.33</td>
<td>49.0</td>
</tr>
<tr>
<td>8</td>
<td>.74</td>
<td>74.0</td>
</tr>
<tr>
<td>9</td>
<td>2.81</td>
<td>56.2</td>
</tr>
<tr>
<td>10</td>
<td>.48</td>
<td>48.0</td>
</tr>
</tbody>
</table>

Total # correct 33.88
Total % correct 57.46
```

The first objective of the study was stated as follows:

To determine the degree of awareness secondary public school teachers and administrators in the Lewisville Independent School District have of their civil rights. This objective was measured in subscales 1 and 2. Subscale 1 dealt with civil rights pertaining to public schools, and subscale 2 dealt with civil rights pertaining more directly to teachers. The breakdown of subscale 1 into levels of awareness is reported in Table IX and the breakdown of the
levels of awareness for subscale 2 are reported in Table X.

---

### TABLE VIII

**TEACHER AWARENESS OF SCHOOL LAW FOR THE TEN SUBSCALES**

*N=152*

<table>
<thead>
<tr>
<th>SUBSCALE</th>
<th>HIGHLY AWARE 75-100%</th>
<th>AVERAGE 50-74%</th>
<th>BELOW AVERAGE 49% OR BELOW</th>
</tr>
</thead>
<tbody>
<tr>
<td>n</td>
<td>%</td>
<td>n</td>
<td>%</td>
</tr>
<tr>
<td>----------</td>
<td>----------------------</td>
<td>----------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>1</td>
<td>4</td>
<td>105</td>
<td>69.2</td>
</tr>
<tr>
<td>2</td>
<td>61</td>
<td>73</td>
<td>48.1</td>
</tr>
<tr>
<td>3</td>
<td>45</td>
<td>78</td>
<td>51.3</td>
</tr>
<tr>
<td>4</td>
<td>71</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>81</td>
<td>59</td>
<td>39.8</td>
</tr>
<tr>
<td>6</td>
<td>66</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
<td>92</td>
<td>60.5</td>
</tr>
<tr>
<td>8</td>
<td>133</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>73</td>
<td>38</td>
<td>25</td>
</tr>
<tr>
<td>10</td>
<td>65</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

---

### TABLE IX

**TEACHERS' AWARENESS OF CIVIL RIGHTS**

*N=152*

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>4</td>
<td>2.6</td>
</tr>
<tr>
<td>Average</td>
<td>105</td>
<td>69.2</td>
</tr>
<tr>
<td>Below average</td>
<td>43</td>
<td>28.2</td>
</tr>
</tbody>
</table>

The highest number of teachers and administrators scored in the average range. Only a small percentage of
the subjects scored in the 75-100%, highly aware, range regarding knowledge of civil rights.

---

TABLE X

TEACHERS' AWARENESS OF CIVIL RIGHTS PERTAINING TO TEACHERS

N=152

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>61</td>
<td>40.1</td>
</tr>
<tr>
<td>Average</td>
<td>73</td>
<td>48.1</td>
</tr>
<tr>
<td>Below average</td>
<td>18</td>
<td>11.8</td>
</tr>
</tbody>
</table>

The highest percentage of correct responses was in the average (50-74%) range, but the highly aware percentage was also large. A small number of subjects scored in the below average range.

The second objective for this study was stated as follows: To determine the level of knowledge teachers and administrators in the Lewisville Independent School District have as to their awareness of students' civil rights. The levels of teacher awareness are reported in Table XI.

The largest number of teachers were in the average awareness range. Only one teacher was in the highly aware range. Almost forty percent of the teachers scored in the below average range.

The third objective for this study was stated as follows: To determine the level of knowledge the teachers and administrators of the Lewisville Independent School
District have of the legal relationships between the school and state and local governments. The ranges of awareness for this objective are reported in Table XII.

**TABLE XI**

**TEACHERS' AWARENESS OF STUDENTS' RIGHTS**

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>1</td>
<td>.7</td>
</tr>
<tr>
<td>Average</td>
<td>92</td>
<td>60.5</td>
</tr>
<tr>
<td>Below average</td>
<td>59</td>
<td>38.8</td>
</tr>
</tbody>
</table>

**TABLE XII**

**TEACHERS' AWARENESS OF LEGAL RELATIONSHIPS**

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>73</td>
<td>48</td>
</tr>
<tr>
<td>Average</td>
<td>38</td>
<td>25</td>
</tr>
<tr>
<td>Below average</td>
<td>41</td>
<td>27</td>
</tr>
</tbody>
</table>

Almost half of the subjects scored in the highly aware range. The remaining subjects were almost equally divided between the average and below average range.

The fourth objective for this study was stated as follows: To determine the degree of awareness the secondary teachers and administrators of the Lewisville Independent
School District have of the new copyright law. The results for the ranges of awareness are reported in Table XIII.

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>65</td>
<td>42.8</td>
</tr>
<tr>
<td>Average</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Below average</td>
<td>87</td>
<td>57.2</td>
</tr>
</tbody>
</table>

Only one question was used in this subscale, therefore responses were only going to be scored in the highly aware and below average ranges. The majority of the subjects are below average in awareness of the new copyright law.

The fifth objective for this study was stated as follows: To investigate the amount of knowledge the teachers and administrators of the Lewisville Independent School District have of the liabilities which may face custodial employees. The levels of awareness are reported in Table XIV.

This subscale contained only one question, therefore responses were going to be either highly aware or below average. A large majority, 87.5%, of the subjects scored in the highly aware range.

The sixth objective for this study was stated as follows: To measure the awareness of the secondary teachers
and administrators of the Lewisville Independent School District as to hiring procedures for teachers. The levels of awareness for this subscale are reported in Table XV.

---

**TABLE XIV**

**TEACHERS' AWARENESS OF CUSTODIAL EMPLOYEE'S LIABILITIES**

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>133</td>
<td>87.5</td>
</tr>
<tr>
<td>Average</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Below average</td>
<td>19</td>
<td>12.5</td>
</tr>
</tbody>
</table>

---

**TABLE XV**

**TEACHERS' AWARENESS OF HIRING PROCEDES**

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>71</td>
<td>46.7</td>
</tr>
<tr>
<td>Average</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Below average</td>
<td>81</td>
<td>53.3</td>
</tr>
</tbody>
</table>

---

There was only one question in this subscale: therefore subjects scored only in the highly aware or below average range. The responses were closely divided with slightly more than half of the subjects scoring in the below average level.

The seventh objective for this study was stated as follows: To investigate the level of knowledge the secondary
teachers and administrators of the Lewisville Independent School District have of teachers' unions and rights concerning strikes. The results for this subscale are reported in Table XVI.

TABLE XVI

TEACHERS' AWARENESS OF UNIONS AND STRIKES

N=152

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>81</td>
<td>53.3</td>
</tr>
<tr>
<td>Average</td>
<td>59</td>
<td>38.8</td>
</tr>
<tr>
<td>Below average</td>
<td>12</td>
<td>7.9</td>
</tr>
</tbody>
</table>

The majority, 53.3%, of the subjects scored in the highly aware range. Only a small number, 7.9%, of the subjects scored in the below average range.

The eighth objective for this study was stated as follows: To investigate the level of awareness the secondary teachers and administrators of the Lewisville Independent School District have of the responsibilities the teacher has to the students in his or her charge. The results of this subscale are reported in Table XVII.

Slightly more than half of the subjects scored in the average range. The second largest majority of subjects scored in the highly aware range.

The ninth objective of this study was stated as follows: To measure the level of knowledge the secondary
teachers and administrators of the Lewisville Independent School District have of classroom practices. The results are reported in Table XVIII.

TABLE XVII

TEACHERS' AWARENESS OF TEACHER RESPONSIBILITIES

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>45</td>
<td>29.6</td>
</tr>
<tr>
<td>Average</td>
<td>78</td>
<td>51.3</td>
</tr>
<tr>
<td>Below average</td>
<td>29</td>
<td>19.1</td>
</tr>
</tbody>
</table>

TABLE XVIII

TEACHERS' AWARENESS OF CLASSROOM PRACTICES

<table>
<thead>
<tr>
<th>AWARENESS</th>
<th>N</th>
<th>PERCENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly aware</td>
<td>66</td>
<td>43.4</td>
</tr>
<tr>
<td>Average</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Below average</td>
<td>86</td>
<td>56.6</td>
</tr>
</tbody>
</table>

There was only one statement in this subscale, therefore the responses were in the highly aware or below average range. The subjects were closely divided, but the majority of the subjects scored in the below average awareness range.
CHAPTER V

SUMMARY AND RECOMMENDATIONS

Summary

The problem of this study was to determine how aware public school teachers are of the laws which pertain to teachers in the public schools. Nine areas of law were explored. These areas are related to civil rights, teachers' responsibilities, hiring procedures for teachers, teachers' unions and strikes, classroom practices, students' rights, rights of school district employees other than teachers, legal relationships of schools and teachers, and the new copyright law.

A sixty-seven-item survey was administered to a sample of 152 junior high school and senior high school teachers in the Lewisville Independent School District, Lewisville, Texas. The responses from one hundred fifty-two surveys were analyzed by a computer. Each survey was scored for number of correct responses in each of the ten subscales, as well as the total results. Percentages of correct responses were determined for each of the ten subscales to determine in which areas teachers are more knowledgeable. The
vocational teachers were scored separately, as well as in combination with the entire sample, in order to determine in which areas of law vocational teachers are more or less knowledgeable. A summary of findings follows. Data indicated that:

1. The majority of teachers and administrators in the Lewisville Independent School District had an average knowledge of civil rights pertaining more personally for teachers than civil rights regarding the school. Data also indicated that in the latter subscale slightly more than 40% had a high degree of awareness.

2. The majority of teachers and administrators in the Lewisville Independent School District had an average knowledge of students' civil rights, but only .7 percent had a high degree of awareness.

3. Almost half of teachers and administrators in the Lewisville Independent School District had a high level of awareness in legal relationships between the school and state and local government.

4. The majority of teachers and administrators in the Lewisville Independent School District had a below average awareness of the copyright law. The majority of teachers were not aware that under certain conditions they may make multiple copies of a chart or graph.

5. A high level of awareness of liabilities which may face custodial employees, if they are at fault, by almost
88% of the teachers and administrators in the Lewisville Independent School District.

6. Slightly more than fifty percent of the responses of the teachers and administrators in the Lewisville Independent School District were below average in awareness as to laws related to hiring procedures for teachers. The majority of teachers were not aware that only the school board can officially hire or fire a teacher.

7. Slightly more than fifty percent of the teachers and administrators in the Lewisville Independent School District were highly aware and knowledgeable in the area of teachers unions and strikes. The majority of teachers were highly aware that the school board has the right to fire striking teachers.

8. Fifty percent of the teachers and administrators in the Lewisville Independent School District possess average knowledge of a teacher's responsibilities to the students in his or her charge.

9. The majority of the teachers and administrators in the Lewisville Independent School District were below average in knowledge of classroom practices. The majority of teachers were unaware that an article that repeatedly uses an obscene and offensive word may not be used in a public high school literature class unless the article has some redeeming literary value.

10. The difference in the number of correct responses
between the teachers who had some exposure to school law and those who have had no exposure differed by less than one percent.

11. Teachers in the different subject areas varied less than ten percent in the amount of correct responses scored in the survey.

Recommendations

1. It is recommended that this same study be repeated with another population to determine if results would vary.

2. In order to obtain more accurate results in the scoring of the ten subscales, it is recommended that each subscale contain the same number of statements, with at least five statements in each subscale.

3. It is recommended that the topics of school law in which teachers lack the most knowledge be presented to teachers during inservice programs. These topics should include

   a. the copyright law.
   b. classroom practices regarding students.
   c. hiring procedures for teachers.
   d. students' rights.

4. The five most commonly missed statements were related to teachers' misconception of student rights. It is recommended that through inservices, classes, seminars, or
conferences that teachers be made aware of the facts that

a. Students have the right to have an attorney present at a school hearing panel in a disciplinary case, but the attorney does not address the panel.

b. A student may be suspended for three days without being given the reason for suspension.

c. Students can be forced to participate in compulsory flag saluting unless they have true conscientious objections.

d. Hearing procedures for students are set up before the student is suspended rather than afterward.

e. Only groups can sue under Title IX.

5. It is recommended that the number of teachers, in each subject area not responding to the survey be reported.
APPENDIX A

SCHOOL LAW SURVEY

November 14, 1980

Teachers and Administrators
Lewisville ISD
Lewisville, Texas 75067

Dear Teachers and Administrators:

In conclusion of my work on a Master of Science degree in Home Economics Education, I am writing a paper on the awareness of public school teachers and administrators on the legal rights and responsibilities of school employees. This information would prove very valuable in guiding the school district to the educational needs of its employees. Many court decisions have been made in recent years which affect our teaching practices and rights as teachers. I am very interested in finding out how aware teachers are of the laws which affect us. I need your help in obtaining this information.

The following pages include a personal survey and fifty-nine questions concerning public school law. I need the personal questions answered to help me categorize the information. Your name is not needed and will in no way be used. I am interested only in the total results for evaluation. Please fill out this survey within the next two weeks and return it to your school principal. When the results have been scored I will be happy to share the results with anyone who is interested. Thank you very much for your help.

Sincerely,

Judy Wilcox
Lewisville High School
1098 West Main Street
Lewisville, Texas 75067
SCHOOL LAW SURVEY

Please check the appropriate blank as it applies to you.

1. Sex
   -female
   -male

2. Age
   ___21-30
   ___31-40
   ___41-50
   ___over 50

3. Position
   ___teacher
   ___administrator

4. Grade level taught
   ___Jr. High School
   ___High School

5. Years of teaching experience
   ___less than 2 years
   ___5-10 years
   ___10-20 years
   ___more than 20 years

6. Area of major teaching responsibility
   ___English
   ___Social Studies
   ___Science
   ___Physical Education
   ___Art
   ___Mathematics
   ___Vocational
   ___Other

7. Educational level
   ___Bachelor's
   ___Master's
   ___Ph. D.

8. Have you had any exposure to school law?
   ___college class
   ___conference
   ___seminar
   ___inservice
   ___read professional
   ___none
   ___or legal article(s)

Please mark a + in the blank on the left hand side of the paper beside each statement you believe to be true and a 0 in the blank beside the statements you believe to be false.

___1. Although prayer is unconstitutional in the schools, daily recitation of Bible passages may be allowed.

___2. A teacher may not display the Bible on his/her desk.

___3. Prayer at athletic events are clearly prohibited by the courts.

___4. Invocations and benedictions are constitutional at
graduation services.

___5. Courses offered for school credit by religious organizations outside of the school system would be constitutionally permissible.

___6. Compulsory school attendance laws do not conflict with Constitutional rights when parents refuse to send their children to school based on religious beliefs.

___7. State statutes which prohibit the teaching of evolution violate an individual's constitutional rights.

___8. The teaching of transcendental meditation course is unconstitutional.

___9. Individuals cannot sue under Title IX.

___10. Under Title IX the school counselor should provide differently for both sexes based on the varied career needs of males and females.

___11. Title IX anti-six bias law does confer authority of HEW to regulate employment practice of schools receiving federal aid.


___14. In using statistics in a hiring discrimination suit the racial composition of the school's student body must be compared with that of the school's faculty.

___15. Bilingual education resulted from a Supreme Court ruling that Chinese students who were instructed in a language they could not understand were deprived of a meaningful opportunity to participate in public education.

___16. It is clearly settled that children of illegal aliens have no right to attend public schools without paying tuition.

___17. _Plessy v. Ferguson_ brought an end to the "separate but equal" doctrine.

___18. School districts that banned corporal punishment prior to the Supreme Court's approval will be forced to
reinstate corporal punishment.

___19. School officials are liable for damages if they abridge the civil liberties of students.

___20. A teacher is restricted from voicing his/her opinion on matters of public interest in connection with the operation of the public schools.

___21. A teacher may resign during the school year without the approval of the school board.

___22. Tenure laws guarantee positions to teachers regardless of changing conditions.

___23. A school board may refuse to renew a nontenured teacher's contract for no reason whatsoever and not give him/her a hearing.

___24. School authorities have the absolute power to regulate a teacher's personal appearance and activities.

___25. A school board may not discharge a homosexual teacher if the teacher admits to being a homosexual.

___26. For employment purposes pregnancy must be treated like any other temporary illness.

___27. A teacher is held responsible for unavoidable accidents as long as he/she is reasonably diligent.

___28. Consent forms signed by the student's legal guardian are absolute and waive liability.

___29. Teachers increase their likelihood of law suits by absenting themselves from the classroom.

___30. The teacher is liable if the student is injured while performing an errand for the teacher or if he/she injures another while on the errand.

___31. Nationwide school counselors have the right of privileged communications which allows them to withhold information given to them by their clients.

___32. The superintendent or personnel director may hire teachers.

___33. Strikes and boycotts are protected under Tinker.

___34. The school board has the right to fire striking
teachers.

35. An article that repeatedly uses an obscene and offensive word may not be used in a public high school literature class.

36. In Tinker the Supreme Court held that high schools must protect the civil liberties of students, especially due process.

37. A prima facie defamation case may be established by a teacher noting in a school register that a student was ruined by tobacco and whiskey.

38. Dress and hair codes are unconstitutional.

39. Students can be forced to participate in compulsory flag saluting.

40. The Constitution does protect a student from inspection by school officials for personal property placed in his/her pocket, purse, automobile, or dormitory room.

41. Students have the legal right to have an attorney address the university hearing panel in their disciplinary cases.

42. In Goss v. Lopez, the court required schools to set up hearing procedures which students could use after they are suspended.

43. A student may be suspended for 3 days without giving the student reasons for suspension and without giving the opportunity to be heard.

44. School sponsorship whether financial or otherwise removes a student newspaper from First Amendment Protection.

45. The federal courts have generally upheld the right of students to distribute underground newspapers so long as they are not disruptive.

46. Students wishing to speak or distribute leaflets at school must conform their pursuits to routine school activities and speak in public places subject to reasonable time, space and manner restrictions.

47. Solicitations for money on school premises are so inherently disruptive that public school officials may ban them completely.
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48. A school board regulation barring married students from extracurricular activities is unconstitutional.

49. Student competency ad personality testing may violate students' rights.

50. Schools may ban the wearing of buttons and armbands.

51. Public schools may not ban fraternal organizations.

52. Public Law 94-142 states that a handicapped child may not be segregated inappropriately from his/her non handicapped schoolmates.

53. Custodial workers are not faced with personal liability.

54. School employees are state employees and school property is state property.

55. The state may alter or add to the qualifications required for a teacher to retain a teaching certificate.

56. Under the Family Educational Rights and Privacy Act of 1974, all parents and students who are eighteen years or older are given an unqualified "right to inspect and review any and all official records, files, and data directly related to precollege students."

57. The National Teacher's Examination (NTE) may be used to grade and certify teachers within a state, even though blacks tend to score lower on the NTE than whites.

58. When courts speak of "teacher" they include the superintendent.

59. Under the new copyright law a teacher may make multiple copies of a chart or graph.
APPENDIX B

ANSWERS FOR SCHOOL LAW SURVEY

1. Although prayer is unconstitutional in the schools, daily recitation of Bible passages may be allowed. (false)

\textit{Abington v. Schempp} (1963)

The Supreme Court invalidated a Pennsylvania statute that required the reading of at least ten verses from the Bible during opening exercises. Nothing in the decision indicated that the Bible could not be used as a document for secular educational purposes. The court distinguished between the legal practice of teaching about religion and the illegal teaching of religion.

2. A teacher may not display the Bible on his/her desk top. (true)

School District of \textit{Abington vs. Schempp} and \textit{Murray vs. Curlett}, combined at 374 U. S. 203, 83 S. CT 1560 (1963)

Since the teacher is an agent of the state it places the state in the light of promoting religion. A student may, however, carry a Bible and the school library may possess a copy provided there is no special place of display.

3. Prayer at athletic events are clearly prohibited by
the courts. (false)


Prayers at athletic events have not been challenged in the courts, but organized prayer in school facilities outside of school hours has been prohibited in some lower courts. Neither is there a clear directive as to a coach leading his team in silent meditation before a game.

4. Invocations and benedictions are constitutional at graduation services. (true)


This is allowable because attendance is voluntary, the primary affect is not the advancement of religion, nor is there excessive entanglement between Church and State. Graduation service held in a Roman Catholic Church was held to violate the Free Exercise Clause of the Constitution in Leake vs. Black, 376 F. Supp. 87 (E. D. Wise, 1974)

5. Courses offered for school credit by religious organizations outside of the school system would be constitutionally permissible. (false)

Vajiria vs. Reed, 313 F. Supp. 431 (S. S. Va. 1972)

This violates the Establishment Clause for it suggests that the school is aiding religion. To set up a constitutionally permissible religious course: all students
must attend, it must be part of the regular curriculum, and taught during regular school hours and by a regular school district teacher.

6. Compulsory school attendance laws do not conflict with constitutional rights when parents refuse to send their children to school based on religious beliefs. (false)


This was true until the Supreme Court struck down compulsory school attendance as it applies to Amish children.

7. State statutes which prohibit the teaching of evolution violate an individual's constitutional rights. (true)

\textit{Epperson v. Arkansas} (1968)

The Supreme Court ruled that the state's right to prescribe the curriculum does not carry with it the right to prohibit the teaching of a scientific theory or doctrine where the prohibition is based upon reasons that violate the First Amendment.

8. The teaching of a transcendental meditation course is unconstitutional. (true)


It violates the Establishment Clause of the
Constitution.

9. Individuals cannot sue under Title IX. (true)

Cannon v. University of Chicago, Civil Action No. 76-1238 (8th Cir., August 27, 1976).

Since Title IX established an administrative procedure for the review of Title IX complaints instead of a private right of court action, the only role for the courts in the statutory scheme is for judicial review of the administrative decision. Title IX provides only for the termination of Federal funds received by the discriminatory institution rather than monetary damages.

10. Under Title IX the school counselors should provide differently for both sexes based on the varied career needs of males and females. (false)


Different materials for students on the basis of sex are prohibited unless their use is essential for elimination of sex bias. Schools may not apply rules concerning a student's actual or potential parental, family, or marital status which treats students differently according to sex.

11. Title IX anti-sex bias law does confer the authority of NE\W to regulate employment practices of schools receiving Federal aid. (false)
Congress intended Title IX to cover only discrimination against students who are direct beneficiaries of Federal assistance, not teachers or other school employees.

12. The Civil Rights Acts of 1964 prohibit sex discrimination including sex transformations. (false)


The term 'incapacity' was given expanded meaning by the New Jersey court: "that where, as has been found in this case, a teacher's presence in the classroom would create a potential for psychological harm to the students, the teacher is unable properly to fulfill his or her role and his or her incapacity has been established within the purview of the statute."


The metropolitan wide solution to school desegregation is an unsettled issue. The Supreme Court in Milliken reversed a lower court ruling requiring the involvement of
some 53 suburban school districts in remedying racial segregation within the Detroit public schools. Gautreaux stated that the U. S. Department of HUD had been found in violation of the Constitution and the Civil Rights Acts of 1964 in the placement of public housing in Chicago and could be ordered to take remedial action extending to the suburban area surrounding the city.

14. In using statistics in a hiring discrimination suit the racial composition of the school's student body must be compared with that of the school's faculty. (false)


The Supreme Court (further) stated that a statistical case of discriminatory hiring can be rebutted by data showing that equal employment opportunity was provided only after Title VII became applicable to school districts. Applicant flow data likewise can rebut a statistical case of hiring discrimination.

15. Bilingual education resulted from a Supreme Court ruling that Chinese students who were instructed in a language they could not understand were deprived a meaningful opportunity to participate in public education. (true)

Where inability to speak and understand the English language excludes natural origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

16. It is clearly settled that children of illegal aliens have no right to attend public schools without paying tuition. (false)

"Federal judge opens door for illegal alien students", Phi Delta Kappan, 1978, 60 (3).

This issue is not only unsettled but there are cases holding for both sides. A Texas federal judge ruled that Tyler ISD could not charge illegal alien children $1,000 tuition to attend public school nor prohibit local school districts from including illegal aliens in average daily attendance figures used in claiming state aid. A recent Texas Supreme Court ruling upheld the state's prohibition and said that illegal alien children are not entitled to free education or equal protection.

17. Plessy v. Ferguson brought an end to the "separate but equal" doctrine. (false)


Plessy v. Ferguson established the doctrine of "separate but equal." Five cases were consolidated in 1954 by the Supreme Court in Brown v. Board of Education of Topeka (Kansas) and Bolling v. Sharpe (D. C.). The court responded in the affirmative to the following issue: "Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities?"

18. School districts that banned corporal punishment prior to the Supreme Court's approval will be forced to reinstate corporal punishment. (false)


The Supreme Court stated that corporal punishment was not a federal issue. States and localities may continue to devise whatever procedures they deem appropriate to accompany corporal punishment or use in lieu of it.

19. School officials are liable for damages if they abridge the civil liberties of students. (true)

Wood v. Stuckland, 420 U. S. 308, rehearing denied 427 U. S. 921 on remand Stuckland v. Inlow, 519 F. 2d 744. The violation is not excused due to ignorance of these rights.
20. A teacher is restricted from voicing his/her opinion on matters of public interest in connection with the operation of the public schools. (false)


A teacher cannot be compelled to forfeit First Amendment rights to comment on public or educational issues. The Supreme Court held in Pickering v. Board of Education that without proof of false statement knowingly or recklessly made, a teacher may not be dismissed for exercising his/her right to speak on public issues.

Teachers neither can be dismissed for publically voicing their criticism to the media services on policies and actions.


Their dismissal would be violation of free speech for teachers do have preferential rights to express themselves on school issues.

21. A teacher may resign during the school year without the approval of the board. (false)


Although a contract between a teacher and a board is binding, it may be breached by mutual agreement. A
teacher's resignation is not effective unless approved by the board. A teacher who has handed in his resignation may withdraw it at any time before the board has acted upon it.

22. Tenure laws guarantee positions to teachers regardless of changing conditions. (false)


No, a school board may discontinue the employment of teachers who have tenure status for reasons of economy, decrease in enrollment, abolishment of courses from the curriculum, and other good administrative reasons.

23. A school board may refuse to renew a non-tenured teacher's contract for no reason whatsoever and not give him/her a hearing. (true)


Although true, a teacher is still entitled to reinstatement if he/she can prove that the board's decision not to rehire was caused by his/her exercise of First Amendment rights. A non-tenured teacher normally has no procedural rights, but retains the substantive rights guaranteed by the Constitution. In light of this teachers will have more difficulty in overturning nonrenewal decisions involving issues of free speech. School boards
are not allowed to weigh constitutionally protected behavior in determining whether to renew the contracts of non-tenured teachers.

Flygare, T. J., "Schools and the law: Supreme Court Clarifies First Amendment Right of Teachers", Phi Delta Kappan, April 1977, pp. 645-646.

24. School authorities have the absolute power to regulate a teacher's personal appearance and activities. (false)

Hinder v. San Jacinto Jr. College, 519 F. 2d 273, rehearing denied clarifies 522 F. 2d 204.

School authorities may regulate a teacher's appearance and activities only when the regulation has some relevance to legitimate administrative or educational functions.

25. A school board may not discharge a homosexual teacher if the teacher admits to being a homosexual. (false)


The Supreme Court by refusing to hear this case left the answer unclear. Since Gaylord admitted to being a homosexual and sexual gratification was presumed, it was concluded that he participated in immoral conduct in the form of sodomy and lewdness. The presumption of sexual gratification by the court raises the problem for unmarried
heterosexual teachers.

26. For employment purposes, pregnancy must be treated like any other temporary illness. (true)


A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy is in prima facie violation of Title VII of the Civil Rights Act of 1964.

27. A teacher is held responsible for unavoidable accidents as long as he/she is reasonably diligent. (false)


Although teachers are under the legal duty to exercise prudent or reasonable care not to injure their students, and to prevent injuries to them, the law excuses situations caused by unavoidable accidents. In order to have teacher liability there must be a breach of duty, a casual connection between the teacher's conduct and the injury, the pupil is without fault, and there is an injury or damage.

28. Consent forms signed by the student's legal guardians are absolute and waive liability. (false)

Drury, R. L. and K. C. Ray, Essentials of School
Regular consent forms will not always be construed by the courts as waiving legal rights. The courts will consider if the person signing fully realized and understood what he/she was forfeiting thus giving informed consent. For a valid consent the parties must be dealing at arms length or on an equal footing. Even though a parent may completely waive all his/her legal rights under an informed consent, the parent cannot waive the legal rights of the student and therefore the student can sue upon reaching legal age.


Permission slips do not provide the informed consent which the law requires. Not only must the person signing be able to read and fully comprehend the context of the matter, he/she must also know and understand the potential multifaceted affects of such which the law calls a "mating of the minds." Also the signers and the school withholds this from the student, if the parent does not sign. Even if the parent signs and ultimately does not sue the school the student can sue when he/she reaches legal age because one person cannot waive another's rights. The parent can only waive his/her rights.
29. Teachers increase their likelihood of law suits by absenting themselves from the classroom. (true)


Two other situations which frequently result in law suits include:

a) allowing a dangerous situation to exist (i.e., broken chair or window), and

b) failure to protect students from a known aggressive and violent pupil.

30. The teacher is liable if the student is injured while performing an errand for the teacher or if he/she injures another while on the errand. (true)


In this situation the student is the teacher's agent and thus the teacher could be held liable for his/her negligence based on the rule of law which states that the principal is liable for negligence of his agents.

31. Nationwide school counselors have the right of privileged communications which allows them to withhold information given to them by clients. (False)


Nationwide only lawyers have privileged communication.
However, various states extend this privilege to physicians, clergy, and counselors. (Litwack, L., "Testimonial Privileged Communication: The School Counselor," (1975), 194-196.

Students should be advised that no educator may legally remain silent in certain cases where a student threatens harm to himself or to others.

32. The superintendent or personnel director may hire teachers. (False)


Only the school board has the authority to employ teachers and it must act as a body. Board members acting separately cannot bind the board. A board cannot delegate this discretionary duty or function to a member of the board, a committee of the board, or an administrative officer.

Parthuli v. Board of Trustees of Jefferson Elementary School District.

A school board can dismiss a superintendent at will. This situation is unlike a due process case where a teacher loses a job altogether for the superintendent "was never denied continued public employment as a full-time, permanent, certified employee of of the school district with all the attendant rights and benefits"
33. Strikes and boycotts are protected under *Tinker*.

34. The school board has the right to fire striking teachers. (True) *Hortenville Joint School District No. 1 v. Hortonville Education Association*, 44 U. S. L. W. 4864.

   The Supreme Court recognized the statutory powers given the school board by the state legislature of employing and dismissing teachers. In order for the court to alter these statutory powers as a matter of federal due process the teachers must prove legally disqualifying bias in the decision to terminate their employment.


   Dissident teachers have a First Amendment right to speak directly to a school board when they disagree with the bargaining posture of the teachers' union.

   This Supreme Court's holding may allow a minority faction to sabotage the negotiating efforts of the elected bargaining agent in hopes that discontent with the bargaining agent will lead to its defeat at the next representative election. The court did not eliminate the gag rule in protecting the elected bargaining agent.
35. An article that repeatedly uses an obscene and offensive word may not be used in a public high school literature class. (True)


This depends on the article. The court in Keefe v. Seppanakos found the article to be within the bounds of "scholarly, thoughtful, and thought-provoking," but did not allow the teacher to assign any book that is legally published. Other courts, however, have not protected vulgar language that was considered 'unnecessary.' Generally a balancing test is used weighing the teacher's right of academic freedom against that of society's in maintaining reasonable school discipline.

36. In Tinker the Supreme Court held that high schools must protect the civil liberties of students, especially due process. (True)


During the late sixties high school students pressured the school to grant them their civil liberties. This the Supreme Court did in Tinker (1969) by stating that students do not leave their rights at the schoolhouse door. Specifically this case spoke to the right of due process
which allows an individual to answer charges of wrongdoing made against him/her.

37. A **prima facie** defamation case may be established by a teacher noting in a school register that a student was ruined by tobacco and whiskey. (True)

*Dawkins v. Billingsley*, 69 Okl. 172 p. 69 (1918)


To establish a **prima facie** case, a student must show that he/she was identified in a defamatory manner through a publication by the teacher. A defense of conditional privilege currently protects teachers and administrators. If *Getz v. Robert Welch, Inc.* (418 W. S. 323 (1974) should become applicable to litigation involving school connected defamation, the likelihood of a judgement against an educator for libelous or slanderous statements communicated as part of the legitimate performance of his duties is slight.

38. Dress and hair codes are unconstitutional. (False)


The Court of Appeals for the Fifth Circuit has generally upheld hair and dress codes. However the Fifth
Circuit has held these codes were unconstitutional as applied to junior college students.

The lower courts have been inconsistent in decisions dealing with grooming and dress. The Supreme Court has not directly ruled on school regulation of hair or dress. By denial of certiorari, the Supreme Court is allowing lower court decisions going both ways.


States, acting through their school authorities and their courts, should determine what, if any, hair regulation is necessary to the management of their schools.

39. Students can be forced to participate in compulsory flag saluting. (True)


The Supreme Court ruled that schools could include, and even require, patriotic exercises in their programs as long as those with true conscientious objections were excluded from the exercises.

40. The Constitution does protect a student from inspection by school officials for personal property placed in his or her pocket, purse, automobile, or dormitory room. (True)

Frels, K. "Search and Seizure in the Public Schools,"
The Constitution does not forbid all searches and seizures but only unreasonable ones. Unless there is a valid search warrant, a search without consent is unreasonable. The exceptions to the warrant requirement are: consent, plain view doctrine, responding to an emergency, immediate fear of removal of the potential evidence, and search of the immediate area following a lawful arrest. A student has reasonable expectation of freedom from intrusion from school officials for property owned by his/her or under his/her control. School lockers are school owned and should be clearly identified as under school control.

41. Students have a legal right to have an attorney address the university hearing panel in their disciplinary cases. (False)


During a disciplinary hearing a student's attorney has the right to sit beside his/her client and consult privately but can not examine or cross-examine witnesses nor address the hearing panel. The attorney can only speak with his/her client.

42. In Ross v. Lopez, the court required schools to set up hearing procedures which students could use after
Procedural hearings are required before students are suspended. They must include a statement of the charges of wrong doing, presentation to the student of the supporting evidence if the student requests to see it and take the opportunity for the student to present his/her side of the conflict. The court reached this holding by determining that education is a property right and due process is thus guaranteed under the 14th Amendment.

43. A student may be suspended for 3 days without giving a student notice of the reasons for suspension and without an opportunity to be heard. (True)


A short or insubstantial period of time has been recognized by various courts as being between 3 and 10 days. In light of case law, a 3-day suspension would be safe.

Any student who poses an immediate threat to persons, property or the academic process can be suspended immediately.

Although *Goss v. Lopez* emphasized the importance of using procedural due process when attempting to suspend or
expel students, faced with immediate danger may suspend students and as soon as possible procedural due process.


The Supreme Court differentiated academic v. disciplinary dismissals. Disciplinary action centers on a straight-forward factual question (e.g. violation of a school rule). Goss v. Lopez required that before a student be given a 10-day misconduct suspension that appropriate procedural due process be provided. Academic dismissal on the other hand is more subjective and requires an expert evaluation of cumulative data.

44. School sponsorship whether financial or otherwise removes a student newspaper from First Amendment Protection. (False)


School boards which intend to regulate school-sponsored literature distribution on school premises, can do so only with clearly drawn standards for content and procedures that provide a speedy determination of whether a publication meets those standards.

45. The federal courts have generally upheld the right of students to distribute underground newspapers so
long as they are not disruptive. (True)


The school may reasonably regulate the time and place of distribution and libelous or obscene written material is not protected.

45. Students wishing to speak or distribute leaflets at school must conform their pursuits to routine school activities and speak in public places subject to reasonable time, space and manner restrictions. (True)


Courts can adapt public forum theory to the school setting with important limitations. Schools compel the presence of a defined population of students and teachers thus limiting the speakers right to command its attention.

47. Solicitations for money on school premises are so inherently disruptive that public school officials may ban them completely. (True)


49. A school board regulation barring married
students from extracurricular activities is unconstitutional. (True)


Under the guise of seeking to discourage student marriages, the schools make the married student at once a second class student and an exile from most of the school activities.

49. Student competency and personality testing may violate students' rights. (True)


A school's use of a personality test that asks intimate questions about the family relationship or to identify potential drug abusers without first obtaining the consent of properly informed parents constitutes a violation of the family's constitutionally protected right of privacy.


Many competency testing programs do not provide for adequate notice, phase-in periods and are racially discriminating.

50. Schools may ban the wearing of buttons and armbands. (False)

Yudof, M. S. "Student Discipline in Texas Schools,"

Protected if the requirements of Tinker are met.

51. Public schools may not ban fraternal organizations. (False)

Yudof, M. G., "Student Discipline in Texas Schools."

Courts are divided.

52. Public Law 94-142 states that a handicapped child may not be segregated inappropriately from his/her nonhandicapped schoolmates. (True)

P. L. 94-142

P. L. 94-142 can be divided into four areas:

1. All handicapped children are entitled to a free appropriate public school education, due process, nondiscriminatory testing and labeling, and confidential handling of personal records and files.

2. Local education agencies are tied to the federal government through the state department of education which must establish procedures for supporting, monitoring and
policing local provisions for handicapped children.

3. Federal support is authorized for state and local agencies to design and implement programs.

4. A handicapped child may not be segregated inappropriately from his nonhandicapped schoolmates and must be given an Individualized Educational Plan.

53. Custodial workers are not faced with personal liability. (False)

Essentials of School Law

The same general principles of negligence and tort liability apply to cafeteria workers, custodial workers, principals, superintendents, bus drivers and other school employees. A personal liability case may be established if: a) the employee owned a duty of care toward the plaintiff b) the employee breached this duty c) this breach was the direct and proximate cause of any resulting injury.

54. School employees are state employees and school property is state property. (True)


The courts have consistently held that education is a function of state, not federal and not local government.

This dates back to the constitutional struggle between the
individual states and the central government.

55. The state may alter or add to the qualifications required for a teacher to retain a teaching certificate. (True)


A certificate is not a contract between the teacher and the state, but rather a license. Since it is a privilege which the state confers, it may impose additional qualifications. The teacher holding a certificate must meet these new qualifications or forfeit the certificate.

In Texas, according to Teacher Certification in Texas, by Texas Education Agency, the 1955 Law on Certification of school personnel, section 12, any teacher who holds a valid certificate shall be protected from any new certification requirements.

56. Under the Family Educational Rights and Privacy Act of 1974, all parents but only students who are eighteen years or older are given an unqualifi ed "right to inspect and review any and all official records, files, and data directly related to precollege students." (True)

Ziskin, Martha Andes comments: Protecting the Privacy of School Children and Their Families through the Family Educational Rights and Privacy Act of 1974. Journal of

However, students attending post secondary schools, need not be eighteen years old. Under this act schools are not able to classify data to preclude inspection and are to establish procedures that take no more than 45 days from date of request. Parents are given a right to challenge the contents.

Parental consent is not required when information is given out to school personnel "with legitimate educational interest" or to school officials or other systems in which the student intends to enroll. In the case of school transfers, parents must be notified of the transmission of information and have an opportunity to challenge its controls.

57. The National Teacher's Examination (NTF) may be used to grade and certify teachers within a state, even though blacks tend to score lower on the test than whites. (True)

**NFA v. South Carolina**

**U. S. A. v. South Carolina**

The Supreme Court held that South Carolina does not discriminate against blacks by using the NTF for no evidence of intentional discrimination was found. The court found the test valid for its purpose of assuring that teachers are minimally competent.
58. When courts speak of "teacher" they include the superintendent. (True)


In the code sense of the word, teacher includes superintendent, counselor, principal, supervisor, classroom teacher, or other professional employee who is required to hold a valid certificate or teaching permit.

59. Under the new copyright law a teacher may make multiple copies of a chart or graph. (True)


The restrictions of the copyright law range from rigid royalty payments to unrestricted duplication. This protection applies only to copyright material and is not available for any work of the U. S. government. Although Congress supplemented the law with specific guidelines which provide numerical limits of duplication by teachers, they choose to retain the "fair use" doctrine. This doctrine looks to the different factors involved in the specific case such as nonprofit nature, educational purpose, quantity, and effect on the market value of the work.
BIBLIOGRAPHY

Books


Garber, H. D., School Law.


Articles

Berger, Michael, "Student rights and Affective Education: Are They Compatible?", Educational Leadership, 143


La Morte, Michael W., "What is Your School Law I.Q.?", Phi Delta Kappan LVII (June 1976) 679-681.


Nolte, M. Chester, "The Legal Heat on Teachers - How to Avoid It", Learning VI (February 1978) 86-89.


Steiger, Ralph, "The U.S. Copyright Law Revision and Reading Teachers", The Reading Teacher XXX (April 1977) 771-775.


Reports


Manual of Directions for Preparing Theses, North Texas State University, Graduate School, 1968.


Unpublished Materials

Basan, Jim, Dennis Ingram, Glenda Walker, and David Wright, Philosophy of Lewisville High School, March 1976.

Newspapers


Cases


Bartin v. Board of Trustees of Jefferson Elementary School District.


Bryan v. Arnoth H. S. Dist., 137 S. W. 2d 256 (Ark. 1940).


Board of Regents v. Roth, 408 U. S. 564 (1972).


Cannon v. University of Chicago (Civil Action No. 76-1238), 7th Cir., (August 27, 1976).


Cot v. Barnes (Ken. 1971).

Grenson v. East Ofaro School Dist., 448 F. 2d 258.


Dunn v. Tyler ISD., 460 F. 2d 137 (5th Cir. 1972).


Crossan v. Sheridan Township Board of Education, 538 F. 2d 319 (3rd Cir. 1976).
Keefe v. Gpopoulos, 418 F. 2d 359 (1st Cir. 1969).
Lucia v. Fuzzan.
Maina v. Mahatichi Mahesh Yogi (46 L. W. 224, N. J. (1977)).
Plessy v. Ferguson,
Strickland v. Inlow, 519 F. 2d 744.


Washington v. Davis.


Williams v. Dade County School Bd., 441 F. 2d 299, 302 (5th Cir. 1971).


