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## *Educators and the Legal System*

### INTRODUCTION

The federal Constitution, state constitutions, and statutory laws provide the framework within which public schools operate. The Tenth Amendment to the U.S. Constitution enumerates that:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states are reserved to the states respectively and to the people.

Consequently, the legal authority to establish and operate public schools resides with the state legislature. The legislature delegates the day-to-day operation and management of schools to local school officials. Therefore, it is important that teachers understand the legal framework that affects schools to ensure that they are operating within the boundaries of the law, particularly with respect to their prescribed duties and responsibilities. School rules and regulations must meet the requirement of legal defensibility to avoid conflicts with federal or state constitutional provisions, federal or state statutes, as well as case law. Teachers are expected to adhere to their school rules and district policies as they perform their teaching duties.

### 1. How Are Teachers Impacted by the U.S. Constitution, State Constitutions, and Federal and State Laws?

They all determine, to a large degree, the legal parameters within which teachers are expected to operate in their daily professional activities. Teachers must understand these parameters to ensure that their actions are legally defensible.

### 2. Why Is the United States Constitution So Important?

The U.S. Constitution is the primary source of law and the basic law of the land. All federal statutes, state constitutions, state laws, local ordinances, and school district policies are subordinate to the U.S. Constitution. Although the Constitution does not refer to education, school rules and regulations must conform to the basic provisions of the Constitution to ensure fundamental fairness and avoid legal challenges. Specific constitutional amendments affecting the operation of schools include the following:

- The **First Amendment** covers freedom of speech, the press, assembly, and religion. Most First Amendment conflicts in public schools center around symbolic expression, religious freedom, and verbal and written forms of expression, most notably involving students and teachers.
- The **Fourth Amendment** protects students from unreasonable searches and seizures and most often involves teachers in connection with their privacy rights.
- The **Fifth Amendment** provides protection for individuals accused of crimes from self-incrimination and most often involves school personnel who have been accused of improprieties involving school funds or equipment. This amendment essentially ensures that the government cannot deprive an individual of life, liberty, or property without due process. However, it should be noted that almost all school operations involve civil rather than criminal issues.
- The **Eighth Amendment** provides protection against cruel and unusual punishment and is generally cited by students in connection with the administration of corporal punishment. However, the courts have held that the Eighth Amendment applies to individuals who have been accused of crimes rather than students who are corporally punished.
- The **Fourteenth Amendment** ensures that students and teachers receive fundamental fairness in their dealings with public schools. The most prominent aspect of due process is the “equal protection” clause, which provides protection to students and teachers by ensuring that the requirements of substantive and procedural due process

are met. Procedural due process requires that a constitutionally valid procedure be employed in cases where a person's life, liberty, or property may be in jeopardy. Substantive due process requires that the state have a valid objective if it is contemplating depriving a person of life, liberty, or property. These aspects typically apply to student disciplinary matters and issues involving teacher dismissal.

These amendments to the U.S. Constitution impact school officials in their management of schools by requiring that their decisions and actions regarding students and school personnel are consistent with constitutional requirements.

### **3. What Should Teachers Know About Their State Constitution?**

State constitutions serve the same purpose at the state level that the U.S. Constitution serves at the national level; however, state constitutions are subject to the requirements of the U.S. Constitution. State constitutions place restrictions on legislative bodies. Legislative authority is also subject to the requirements of federal law and the federal Constitution. State constitutions address the same subject matter as does the federal Constitution, including church-state relations (equal protection and individual freedoms), and prescribes certain acts that the legislature is required to perform, most notably establishing a system of public education. State constitutions represent the foundational law of each state. They essentially require that certain acts be fulfilled by legislatures, one of which involves the establishment of public education systems.

### **4. How Do State Agencies Affect Teachers?**

State agencies are legal entities established by state legislatures. Their primary role is to ensure that state laws and policies are executed properly by local school districts. The state school board occupies prominence as a state agent. Its duties and responsibilities are determined by the state legislature. Certain powers are also delegated to the state school board. Most board members are elected by popular vote; however, in other cases, they are appointed by the governor.

### **5. What Are the Responsibilities of the State Board of Education?**

The state board is generally provided the latitude to issue mandates and directives that affect teachers regarding local school operations, many of which carry legal ramifications. The state board, through delegated power, may develop policies covering a wide range of legal issues such as health and safety of students and employees and disciplinary practices that affect

students. It also may determine through delegated authority by the legislature certification requirements for school personnel and exit requirements for graduating students, including testing and accreditation standards. The state board is essentially a policymaking body that provides guidance and direction for teachers and schools throughout the state. One important duty of many state boards of education involves the selection of a chief state school officer (CSSO). In some states, however, the CSSO is elected by popular vote.

Although the state legislature has the authority to prescribe curriculum offerings and student performance standards, the legislature may delegate that authority to the public schools; however, curriculum and content standards are typically adopted by the state board of education. These standards generally reflect a consensus among classroom teachers, parents, school administrators, and business and community leaders of what students must learn.

Curriculum standards describe the state's expectations for student learning and achievement in all grade levels and content areas. A curriculum framework or course of study may be provided that details specific knowledge and skills students must possess to meet subject matter standards. Students may be required to take state-mandated tests as a means of measuring achievement in certain content areas. Teachers are accountable for following the state course of study and ensuring that the required course content is taught in their classrooms. Content standards are designed to facilitate the highest level of student achievement through defining specific knowledge, skills, and competencies students should acquire at each grade level.

## **6. What Are the Responsibilities of the State Department of Education?**

Each state has established a state department of education under the leadership of a CSSO that provides statewide regulatory authority. The state department also employs specialists in every area essential to school operations. The state department of education conducts research on school practices, develops short- and long-term plans for educational outcomes, enforces state and federal law, evaluates districts for accreditation, evaluates statewide testing programs, and monitors compliance of state-approved curriculum, among other duties. Although there are variations among the states, most state departments consist of specialists in the following areas: administration and finance, disability services, instruction, legislation and research, professional standards, and audits and management, among others. The department provides services and support to local school systems in virtually all aspects of local school district operations.

## 7. How Do Local Boards of Education Exert Control Over Public Schools?

Local school boards are responsible for the daily operations of schools in their district. Their primary role is to function as a policymaking body. The board acts as a corporate body. Individual board members have no power except for what is vested in the board as a corporate body. Board members are either elected by constituents in their geographical regions or appointed by the mayor with concurrence by city councils. In some states, one of the most important decisions local boards render involves the selection of a school district's superintendent. Superintendents are elected by citizens in other states. School boards are provided local discretion as long as their actions are not in conflict with state or federal law, federal and state constitutions, and applicable case law.

Courts are generally reluctant to interfere with school board decisions but will do so when a challenge arises involving constitutional or statutory issues. Local school policies are developed by the school board. These policies define the roles and responsibilities of teachers and also place certain legal restrictions on teachers consistent with federal and state constitutions, federal state statutes, and court rulings. School board meetings are open sessions that teachers, citizens, or other interested parties may attend. School boards hold executive session when sensitive issues involving personnel are discussed, at which time the meeting is closed to the general public.

As an example, a controversy arose in Pennsylvania when a local newspaper challenged the school board's authority to hold an executive session. The board had contracted a consultant to assist in the selection of a new superintendent of schools. Candidates were screened and reduced to a pool of six applicants. The board held an executive session to interview five candidates. A public meeting was held following the executive session to secure citizen input. The board subsequently held an executive session to interview three finalists and ranked them in order of preference. Following the fourth executive session, a public meeting was held during which time the board voted for its choice.

A newspaper publisher filed suit in a Pennsylvania trial court for a declaratory ruling that the board had violated the state's sunshine law (or open meeting law) by in effect voting in the executive session rather than at the public meeting. The court held that the executive session was permissible under the Sunshine Act because deliberations and discussions occurred rather than official actions. The publisher appealed to the Commonwealth of Pennsylvania. The commonwealth court observed that employment was an exception to the Sunshine Act. The court rejected the publisher's claim that votes taken in executive session constituted official

action under the act. The actions taken in executive session were to reduce the field of candidates and constituted only deliberations; therefore, it was unnecessary for these meetings to be open to the public or for the school board to record votes. The commonwealth court affirmed the judgment of the trial court.<sup>1</sup>

School board policies carry the force of law in public schools as long as they do not conflict with federal or state constitutions, federal or state statutes, or applicable case law. Policies establish a direction and a course of action for school districts that affect teachers and students alike. Policies assign authority and indicate what actions should be taken and by whom in a given situation. They also establish controls and ensure that schools are accountable to the general public. Policies are typically broad in scope and cover a wide range of subject matter such as students' rights and responsibilities, curriculum and instruction issues, personnel employment practices, administration, fiscal management, facilities, community relations, and school organization and athletic programs, among others. Policies set parameters so that students, faculty, and staff understand expectations of the district. Courts may be called upon when school district policy is challenged to determine if a particular policy meets constitutional requirements at both the state and federal levels.

### **8. What Is the Role of the Local School Superintendent?**

Local school superintendents are the chief executive officers who are responsible and accountable for the overall operations of the district. They provide a vision for the district and determine in consultation with senior-level staff the strategies needed to fulfill their vision. Local superintendents are delegated overall responsibility for selecting teachers, administrators, and staff members with school board approval. They also assume responsibility for the district's budget, facilities, student transportation, and curriculum. Superintendents are either appointed by the board or elected by local citizens. Whether appointed or elected, they must be knowledgeable about numerous state and federal laws and federal and state regulations, as well as local ordinances that affect the daily operation of the school since they are held accountable for ensuring that their districts are in compliance with all applicable laws, rules, and regulations. Superintendents are accountable to their boards as well as to the citizens of the community. The relationship between the school board and the superintendent is best described as a legislative/executive relationship where the board sets policy and the superintendent executes approved policy.

### **9. What Is the Most Significant Role Played by the Federal Government in Reforming Public Schools?**

Perhaps the most sweeping legislation to date involves the No Child Left Behind (NCLB) Act of 2001, a landmark educational reform initiative

designed to improve student achievement in low-performing schools and to change the culture of schools in America. With the passage of NCLB, Congress reauthorized the Elementary and Secondary Education Act (ESEA) of 1965. Raised standards and expectations for students and teachers are designed to ensure that a certain level of proficiency is reached by all students in reading and mathematics during their twelve years of schooling. While NCLB has been met with a number of challenges from various states, it continues to be supported by Congress. Reauthorization is pending by the Congress. One of the most critical issues regarding NCLB for state legislators and educational policymakers is that the funds appropriated by the federal government are not viewed as adequate to cover the expenses the law imposes on state government and local school districts. The law is thus seen by many as an unfunded mandate. (See Chapter 14 for a more comprehensive discussion of NCLB.)

#### **10. What Primary Sources of Legal Protections Are Available to Teachers to Alleviate Unfair Treatment in Their Schools?**

Federal laws protect teachers from discrimination in the operation of public schools by requiring that the actions of school officials be compliant with the intent of the law. Examples of these laws include the following:

- Civil Rights Act of 1964, Title VI
- Civil Rights Act of 1964, Title VII
- Education Amendment of 1972, Title IX
- Americans with Disabilities Act of 1990
- Age Discrimination in Employment Act of 1967
- Equal Access Act of 1964
- Family and Medical Leave Act
- Section 504 of the Rehabilitation Act of 1973, as well as Title II of the Americans with Disabilities Act of 1990

The laws are designed to protect teachers and school personnel against discriminatory acts based on race, gender, age, national origin, religion, disabilities, childbirth, and family illnesses. School officials must thus ensure that their decisions regarding teachers and other school personnel in these areas are legally defensible. Various federal agencies may be employed when teachers believe their rights have been violated. The Office of Civil Rights handles cases based on sexual discrimination, as does the Equal Education Opportunity Commission (EEOC). The EEOC also handles other forms of discrimination listed under Title VII. Teachers can bring action in federal court after other administrative remedies have been exhausted. See Resource A for a more comprehensive listing of federal statutes and penalties imposed for noncompliance. While this list is not all-inclusive, public schools must meet the provisions of these acts or face court litigation when violations occur.

## 11. How Does the Court System Affect Teachers in Public Schools?

Court rulings comprise an abundant source of law that influences how public schools operate. The courts, through their decision-making powers, alter numerous practices in public schools when there is evidence that the constitutional rights of students have been jeopardized. Case law defines relationships among administrators, teachers, and students through defined limits of authority, control, and personal freedoms.

The U.S. Constitution represents the leading source of law. All statutes, both federal and state as well as case law, are subordinate to the U.S. Constitution, meaning that they cannot be in conflict with federal constitutional provisions. Case law is subordinate to statutes unless there is evidence that state law conflicts with the Constitution, in which case court decisions or case law take precedence by invalidating the statutes in question.

Most cases pertaining to public schools that involve nonfederal questions are litigated in state courts. Those involving federal issues may be litigated at either the state or federal level. School policies and practices must be in conformity with both state and federal constitutional provisions. If they are not, when challenged, they will be ruled invalid. When a challenge is addressed by the courts, they apply basic principles of law to the factual circumstances to determine the constitutionality of the challenged school practice. In this way, the courts exercise considerable influence over the operation and management of schools. Court decisions set legal limits on the prerogatives teachers may exercise in relationship to students. Teachers must be knowledgeable of the legal parameters that must be met in their decisions and actions involving students. Court decisions represent one of the primary sources of law affecting school operations.

## THE COURT SYSTEM

The court system affects schools by providing a source of law that determines whether school policies and practices are legally defensible. There is a dual system of courts: one system operates at the federal level, while the other system operates at the state level. Many educational cases are heard in state courts but may also be heard in federal courts when constitutional issues are involved. When conflicts arise, state courts are often called upon to interpret the state's constitution or statutes.

## FEDERAL COURTS

Federal courts were established by Article II, Section I, of the U.S. Constitution. Federal jurisdiction is created by federal district congressional acts. The number of courts is determined by state population, with