

Public School Educators' Knowledge of Selected Supreme Court Decisions Affecting Daily Public School Operations

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ABSTRACT

The purpose of this study was to determine if high school educators were aware of selected legal decisions rendered by the Supreme Court that affect the daily operations of the public schools. Forty-three principals, sixty-three assistant principals and one hundred and eighty four teachers responded to an instrument designed to assess their knowledge of public school law. Educators lacked knowledge in areas of school finance, corporal punishment, and teacher rights. Their results suggest a need for required courses in law as a prerequisite for teacher certification and for funding for staff development training in school law.

INTRODUCTION

The public schools are operating in a society shaped by legal decisions. In the early part of this century schools could be considered fairly autonomous because the law rarely affected curriculums or students. Today, the situation is different. Courts often decide educational policy matters, curriculum issues, teacher rights, and student rights. Effective educators need to be knowledgeable of public school law and its impact on daily school operations. Knowledge of public school law is essential because the "lawsuit" is the major weapon in the arsenal of those who wish to change American public schools. Hulsizer (1987) contended that public education was on trial. He cited court cases in Tennessee and Alabama that challenged the purposes of public education and threaten democratic rights guaranteed by the First Amendment. Fischer, Schimmel and Kelly (1981) pointed out that educators ignore the law at their own peril, and McDaniel (1979) has noted that ignorance of the law is no excuse for professionals. Educators make hundreds of decisions yearly. Some of the decisions and actions have rendered them defendants in courts of law (Ogletree & Gauett, 1981). We live in a society where 1,200 to 3,000 suits are brought against teachers and administrators every year. Educators should take heed that if they are careless, unprofessional, or negligent, they

could be subjected to financial penalty. Students do sue teachers on occasion, although the frequency of such action is much less than one would expect. When sued, teachers, even if they win the case, suffer the personal costs of lost time, the stigma of public accusation, and possible defense counsel fees if they are not indemnified by the plaintiff, their district, or a teacher association.

Teacher preparation or certification programs rarely require teachers to demonstrate their knowledge in public school law. Shoop (1983) called for state boards of education to prescribe courses in school law as a prerequisite for certification. The knowledge of education law is more effective as a protector than as a healer and it is better to have a solid understanding of education law than it is to study the relevant statutes after the fact. At times, education litigation seems to outpace educators' abilities to cope, thus resulting in confusion, frustration, stress and even hostility toward the law. Constructive approaches should be developed to join law and education. Hardy (1982) suggested that educators trained in the areas of duty and standard of care are in an improved position to make rational decisions with increased confidence.

Teachers must have a strong working knowledge, beyond common sense, of education law. This knowledge will enable them to provide proper supervision and to protect the rights and welfare of students. Bednar (1984) noted that few educators have a grasp

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of preventive law and even fewer have a working knowledge of how laws affecting education apply to the daily operations of public schools. Dunklee (1985) found that almost 60 percent of respondents could not make correct decisions in a series of scenarios designed to determine their level of awareness of the legality of situations in the public schools. Kigin (1983) noted that many classroom teachers and administrators regarded legal principles applicable to public school education with apathy or disinterest. Sorenson and Chapman (1985) noted that the implications of federal law and court decisions for educators have been a continuing source of confusion and misunderstanding.

The escalation in the number of challenges to public education is at least partially due to the landmark case of *Tinker v. Des Moines Independent Community School District* (1969) where the United States Supreme Court stated that students do not shed their constitutional rights at the schoolhouse gate. In the wake of the *Tinker* decision, the courts, especially at the federal level, have been inundated with challenges to the policies, procedures, actions, and decisions of school personnel. The widely publicized ruling in *Tinker* has alerted society to the fact that schools can and will be held accountable for their actions. Legal activism has found a home in the public schools since *Tinker*. Not only are there more suits against educators, there are also more types of suits against them. Furthermore, educators are increasingly in a position where they are called upon to go into court to protect themselves.

Sametz, McLouglin and Streib (1983) noted that in a culture that constantly changes and demands more sophistication from professional educators, the study of education law has a place in the curriculum of teacher education programs. Colleges of education must become alert to the present role that litigation plays in shaping educational practice. They must prepare students to recognize that since ignorance of the law can be no excuse, than all educators have an obligation to become acquainted with legal decisions that affect their daily operations. Of all legal decisions rendered in the United States, Supreme Court holdings are preeminent and apply to all educators irrespective of their place or position of employment. Therefore, the purpose of this study was to investigate the knowledge of selected Supreme Court decisions by public school educators.

METHOD

Subjects

The population defined for this study included all educators in 200 high schools in the state of South Carolina in 1988. Fifty-two high school principals were randomly selected from the South Carolina State Department of Education Directory of Public Schools to receive a questionnaire. Follow-up letters and phone calls resulted in an 82% rate of return (N=43). Two hundred and ninety principals, assistant principals and teachers were surveyed. The distribution of the respondents was 14.8% (43) principals, 21.7% (63) assistant principals, and 63.5% (184) teachers. Thirty-three percent (33.4%, 97) of the principals were Black, 63.8% (185) were White, and 2.8% (8) were classified as other. There were 14.1% (28) urban schools, 20.3% (41) suburban schools and 65.6% (131) rural schools. In the sample, 16.6% (48) of the educators had at least one undergraduate public school law course and 83.4% (242) indicated no undergraduate law courses.

Instrument

A fifteen item instrument was field-tested for content validity in a pilot study with a comparable group of principals, assistant principals, and teachers. The instrument was tested using the test-retest method and was found to have a reliability coefficient of .87. Information was sought on a number of areas related to public education: prayer, Bible reading, student rights, teacher rights, handicapped students, corporal punishment, tracking, exit examinations, and school finance.

Procedure

The principals of the schools received the instruments via the U.S. Postal Service along with a demographic instrument and a cover letter. Principals were requested to complete the instrument and to randomly select two assistant principals and five teachers to complete the remaining questionnaires enclosed in the package. Respondents were guaranteed anonymity and were asked to voluntarily complete the questionnaires. After completion of the questionnaires,

Table 1
A Questionnaire on Legal Decisions Impacting Daily Operations in Public Schools

Questions	Correct Responses F/%	Incorrect Responses F/%	No Idea F/%	Missing Responses F/%
1. Are laws requiring racial segregation illegal?	266/91.7	9/3.1	13/4.5	2/0.7
2. Are students considered eligible for civil rights protection regarding in-school activities involving speech and press?	214/73.8	47/16.2	22/7.6	7/2.4
3. May public school administrators censor school newspapers if deemed necessary?	261/90.0	14/4.8	12/4.1	3/1.0
4. May school officials search a student if there is no reasonable cause?	229/79.0	44/15.2	14/4.8	3/1.0
5. Is in-school punishment for out-of-school offenses legal?	148/51.0	99/34.1	36/12.4	7/2.4
6. It is illegal to deny physically handicapped students admission to most postsecondary schools?	257/88.6	23/7.9	8/2.8	2/0.7
7. If there are a substantial number of non-English speaking students in school, they must be given special help to overcome this handicap?	236/81.4	13/4.5	37/12.8	4/1.4
8. Can teachers be fired for oral or written statements clearly critical of school authorities, if the statements have no effect on school operations or objectives?	204/70.3	43/14.8	39/13.4	4/1.4
9. May teachers/students be excluded from public schools legally for health conditions that are classified as handicapped?	266/91.7	9/3.1	13/4.5	2/0.7

Table 1 (cont.)

Questions	Correct Responses	Incorrect Responses	No Idea	Missing Responses
	F/%	F/%	F/%	F/%
10. Must student suspensions for even a short time (e.g., two days for misbehavior) include some means of telling the student what he/she is being charged with and some attention to hearing the student's response to the charges, provided the case does not represent an immediate threat to safety?	276/95.2	4/1.4	6/2.1	4/1.4
11. In districts authorizing corporal punishment, does the court require school authorities to provide statement of charges and to listen to the student's defense against those charges before administrating corporal punishment?	222/76.6	51/17.6	11/3.8	6/2.1
12. Are Bible reading, prayer, compulsory flag salute, and the pledge of allegiance in the public school permissible, provided there is substantial community support for these exercises?	222/76.6	51/17.6	11/3.8	6/2.1
13. Is ability grouping and/or tracking within a school or school districts legal?	238/82.1	31/10.7	16/5.3	5/1.7
14. Are exit examinations for students in public schools legal?	278/95.9	4/1.4	6/2.1	2/0.7
15. Have state school finance reform legislative enactments adopted to some degree the notion of "Fiscal Neutrality"?	64/22.1	40/13.8	179/61.7	7/2.4

Note: F = frequency

respondents returned the copies to a designated teacher at their site. Participants interested in a summary report of the study were instructed to request this information under separate cover to preserve anonymity. The instrument was mailed to the principals in October 1988; and all responses used in the study were received on or before November 15, 1988. Data were entered by terminal into a VAX/VMS computer and processed according to version 9.0 of the Statistical Package for Social Sciences (1984). The objective of this study was to determine the extent to which principals, assistant principals and teachers were aware of selected legal decisions rendered by the Supreme Court that affect the daily operations of the public schools.

RESULTS

Data were analyzed by comparing the frequency of correct, incorrect, and "no idea" responses on each question (see Table 1). Only eight of the 15 questions were answered correctly by 80% or more of the educators. These questions pertained to legal decisions relative to the public schools in areas of racial segregation, school newspapers, rights of handicapped students, student suspensions, tracking, and exit examinations. One question (#5) asked if in-school punishment for out-of-school offenses was legal. Only 51% of the educators responded correctly. Similarly, only 65.5% responded correctly to a question (#11) concerning corporal punishment, and only 22.1% responded correctly to a question (#15) on school finance. There were two questions in particular where many respondents indicated "no idea" as to the legal decision. These were for questions on corporal punishment (17.2%, 50 subjects) and school finance (61.7%, 179 subjects).

DISCUSSION

The results suggest that educators would benefit from preparation in public school law relative to major Supreme Court cases affecting the daily operations of the public schools. Of the educators surveyed, 83.4% had no undergraduate courses in school law and 60.3% had no graduate law courses. They seem to have inadequate concepts of the law as it relates to them and their day-to-day school activities. In fact,

many educators regard legal principles applicable to public school education with apathy or disinterest. There appears to be an immediate need to provide staff development training in law relative to school finance, corporal punishment and teachers rights.

The courts are increasingly holding educators to higher standards of competence and knowledge as professionals. Since education is now considered a right, guaranteed to all, rich and poor, normal and handicapped, of all races, the legal parameters have become even more important to educators. A dramatic increase in lawsuits is a major indicator that people want somebody to pay when things do not work out evenly or fairly in their lives. This study supports the few extant research studies and papers that have urged colleges to prepare educators to cope with the number and complexity of legal issues that surround the education profession. This requirement probably should be initiated and funded by state legislatures and state boards of education. Teacher preparation or certification programs should require courses in school law as a prerequisite to certification. Staff development training in school law should be provided to all educators.

REFERENCES

- Bednar, W. D., Jr. (1984). School law update: Preventive school law. *NOLPE*, 37, 22-29.
- Dunklee, D. R. (1985). An assessment of knowledge about tort liability law as possessed by selected public school teachers and principals. (Doctoral dissertation, Kansas State University, 1982). *Dissertation Abstracts International*, 78, 2801.
- Fisher, L., Schimmel, L., & Kelly, C. (1981). *Teachers and the law*. New York: Longman.
- Hardy, M. S. (1982). Preventive law and public education. *Journal of Law Education*, 11, 42-48.
- Hulsizer, D. (1987). Public education on trial. *Educational Leadership*, 85, 15-17.
- Kigin, R. (1983). Recent graduates have definite ideas on how to improve teacher education programs. *The Teacher Evaluator*, 59, 168-172.

Ogletree, R., & Gauett, K. C. (1981). *Essentials of school law*. New York: Appleton.

McDaniel, T. R. (1971). The teacher's ten commandments: School law in the classroom. *Phi Delta Kappan*, 60, 703-708.

Sametz, L., McLoughlin, C., & Streib, V. (1983). Legal education for preservice teachers: Basics or remediation? *Journal of Teacher Education*, 34, 10-12.

Shoop, R. J. (1983). *Kansas school law: A principals survival guide*. Dubuque, IA: Bowers.

Sorenson, G. P. & Chapman, D. W. (1985). School compliance with federal law concerning the release of student records. *Educational Evaluation and Policy Analysis*, 7, 9-18.

Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 89S. Ct. 733, 21 L. Ed. 2d 732 (1969).