

UNIVERSITY OF WISCONSIN-MADISON
Department of Education Leadership and Policy Analysis

**305-840, Legal Aspects of Elementary and Secondary Education
Fall 2008**

**1161 Educational Sciences Building
4:40-7:10, Tuesday**

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Please be aware that a Learn@UW website is being used in conjunction with the course.

We will be using the Learn@UW site for 4 purposes:

1. To post resources, links, and learning aids, etc. [Content modules]
2. To participate in focused discussions. [Discussion tool]
3. For electronic assignment submission [Dropbox tool]
4. Self-check quizzes (these are optional and do not figure into your grade)

Please take some time to explore the site before the second session.

Required Text:

Alexander, K. & Alexander, M.D. (2008). *American Public School Law* (7th ed.) Belmont, CA: Wadsworth/Cengage Learning. ISBN-13: 978-0-495-50619-5; ISBN-10: 0-495-50619-2.

NSBA Legal Clips: subscribe free at:

<http://www.nsba.org/site/page.asp?TRACKID=&CID=373&DID=8614>.

Students are responsible for independently obtaining all assigned cases not printed in the required text or posted on Learn@UW. The course outline contains the full legal reference for finding each such case independently.

Other readings as assigned. Please note some readings are on e-reserve and others are available on the Learn@UW course site. See notations on course outline.

Recommended Texts:

Cambron-McCabe, N.H., McCarthy, M. M., & Thomas, S.B. (2004). *Public School Law: Teachers' and Students' Rights* (5th ed.). Boston: Allyn & Bacon.

Lane, K, Connelly, M.J., Mead, J. F., Gooden, M. & Eckes, S., editors (2008). *The Principal's Legal Handbook* (4th ed.). Education Law Association, Dayton, Ohio.

Purpose of the Course:

This course is designed to introduce students to the legal aspects of public education in the k-12 school system. The course examines current legal issues and introduces students to legal reasoning and analysis. Particular attention is paid to law as public policy and the analysis of the same.

Course Objectives:

1. Students will be introduced to various legal issues and identify those issues inherent in daily school practice.
2. Students will explore various legal principles and their application.
3. Students will identify various analytic frameworks that guide legal analysis.
4. Students will apply principles and/or frameworks to a situation or issue.
5. Students will examine the sources of law and the various interests that the law seeks to balance.
6. Students will understand their role in the development and implementation of law and policy.
7. Students will analyze existing policy from a legal perspective.
8. Students will understand the dynamic nature of school law and explore tools and resources available to help them remain current.

Course Requirements:

Students are expected to:

1. Be prepared to discuss and evaluate all assigned materials.
2. Participate actively in all class activities. Your class participation grade will be based on 3 considerations (attendance, active contributions to activities, & obvious preparation for class). Please be prompt and please notify instructor of any absence in advance, whenever possible. If you will be unable to attend for the full class time consistently or expect to miss 3 or more classes, it is recommended that you drop the class and take it during a semester with fewer conflicts. Under usual circumstances, no make-up activities will be allowed in lieu of class attendance. Exceptions/accommodations may be made for absences due to meeting contractual work requirements, disability, or serious illness. In the latter cases, students should schedule a meeting with Dr. Mead to discuss the situation to determine whether an exception is warranted.
3. Demonstrate the ability to use legal resources by completing a library research exercise. *
4. Complete 2 critiques - one of a case opinion, the other a law review article. *
5. Participate in focused group discussions on line exploring issues related to the course.*
6. Complete an employee discipline assignment.*
7. Complete a project centered on an educational policy. You will examine an existing policy, its implementation and its legal dimensions, and make policy recommendations. You will present this analysis to the class and submit a paper detailing the same. *

* Specific directions will be provided for each of these requirements.

Papers may be submitted in hard copy or electronically. If students choose to submit papers electronically, files should be placed in the “dropbox” section of the Learn @UW site designated for the particular assignment. Please **DO NOT** send assignments via email.

Grading Calculus

Class Participation	20 %	Library Research Exercise	10 %
Critiques & Employee Discipline Assignment	20 %	Topical On-Line Discussion	20 %
Policy Project and Presentation	30 %		

Grading Scale

	<u>Ed. School</u>	<u>Law School</u>
93% - 100%	A	A
88% -92.9%	A/B	A- (90.5-92.9%) B+ (88-90.4%)
83% - 87.9%	B	B
78% - 82.9%	B/C	B- (80.5 -82.9%) C+ (78 -80.4%)
73% - 77.9%	C	C

A note about using appropriate citations and plagiarism:

Using source material appropriately is one criterion on which your papers will be graded. Papers with inappropriate use of source material –even if no academic misconduct has occurred – will receive no higher than a 75% of the points available (a C). I know this sounds harsh, but like many professors I’m struggling to find a way to stop a problem with which I have more experience than I’d like. Unfortunately, I have had several instances where a student has directly lifted sentences – even paragraphs – from source material without proper attribution. When it happens, I am honor-bound to investigate. It’s a horrible experience for all involved and one I do not wish to repeat. In the end, I am usually left with the choice between two conclusions: (a) either the person is guilty of academic misconduct or (b) the person enrolled in graduate school without knowing how to quote, paraphrase and reference appropriately. Neither is a happy conclusion. So . . .

Please be sure to use appropriate procedures for quoting, paraphrasing, and

acknowledging sources when preparing any written work. Please see the materials available under the title, [Quoting, Paraphrasing, and Acknowledging Sources](#), by the UW-Madison Writing Center. <http://www.wisc.edu/writing/> and those under the title [Internet Citation Guides](#) from the UW Libraries. www.library.wisc.edu/libraries/Memorial/citing.htm As graduate students, I expect that you understand this information or that you will take independent action to acquire the needed information prior to the submission of any written work. Claims of ignorance at this level are not persuasive.

Inappropriate use of source material may constitute academic misconduct and will be

investigated. Consequences for academic misconduct are serious and can range from an oral reprimand up to suspension or expulsion from the University. The Student Code of Conduct, which explains both your rights and responsibilities as students, is available at: <http://www.wisc.edu/students/misconduct.htm>

Students with disabilities requiring accommodations should make an appointment with the instructor to discuss plans for the semester.

Course Outline

Please have all readings and assignments completed by the date indicated. Chapter and page notations refer to the required text. Students need only read the court cases listed. Any case included in the text, but not on the syllabus list is not required reading. Students are responsible for all narrative portions of assigned chapters, including sections under the heading, “Case Notes.” Students are responsible for independently obtaining all cases for which full case citations are given. When obtaining/reading such cases, only the majority opinion is required reading unless specifically noted otherwise. Reading concurrences and dissents is strongly recommended for a firm understanding of the issues, but is not required. Underlined cases are those cases I would expect you to know by name (for example, on a comprehensive exam ☺). That does not mean the principles illustrated by the other cases are unimportant, only that you will not be expected to recall the case names. You are responsible for the principles. You should also be able to discuss how legal thinking has evolved from one case to the next so that chronology is important even if memorizing specific dates is not. All readings that are not cases and do not appear in the required text are on electronic reserve through the CIMC or linked from Learn@UW. **Additional readings may be assigned.** Please be aware that topics do not always neatly fit into a single class session, so this outline should be viewed as an estimate of the day we will **begin** discussion of a given topic. Discussions will likely “spill over” from one session to the next. [**Note to Law Students:** This course runs on the School of Ed. calendar, not the Law School calendar.]

Session	Date	Topic	Readings and Assignments
1	Sept. 2	Introduction Legal Structure	<p>Readings: Chapter 1 US Constitution Mead, Julie F. (2008, forthcoming). “The Role of Law in Educational Policy Formation, Implementation and Research.” AERA Handbook on Educational Policy Research. Sykes, Gary, Plank, David, & Schneider, Barbara. American Educational Research Association, Washington, D.C.</p> <p>Recommended: Heubert, J. (1997). The More We Get Together: Improving Collaboration Between Educators And Their Lawyers. 67 <i>Harvard Educational Review</i> 531 (1997).</p>

Session	Date	Topic	Readings and Assignments
2	Sept. 9	Legal Research Negligence	<p>Readings: Chapter 11 Whiteman, Michael. Retrieving Statutes, Cases and Law Review Commentary – A Primer for Non-Lawyers. 32 Journal of Law and Education 79 (2003).</p> <p><i>Spears v. Jefferson Parish School Board</i> <i>Fallon v. Indiana Trail School</i> <i>Brown v. Tesack</i> <i>Brownell v. Los Angeles USD</i> <i>Johnson v. Sch. Dist. Of Millard</i> <i>Wallmuth v. Rapides Parish</i> <i>Stevens v. Chesteen</i> <i>Hammond v. Board of Ed.</i> <i>Wagonblast v. Odessa</i> <i>Donohue v. Copiague</i> <i>Benitez v. New York City</i> (Learn@UW) <i>Squires v. Nevada</i> (Learn@UW) <u><i>Auman ex rel. Auman v. School Dist. of Stanley-Boyd</i>, 248 Wis.2d 548, 635 N.W.2d 762, 159 Educ. L. Rep. 321, (Wis. 2001).</u></p> <p>Case Argument</p>
3	Sept. 16	Separation of Church and State (Funding Cases)	<p>Readings: Chapter 5 (pp. 171-235)</p> <p><i>An Act for Establishing Religious Freedom</i> <i>Memorial and Remonstrance against Religious Assessments</i> <i>Everson v. Bd. Of Ed.</i> <u><i>Lemon v. Kurtzman</i></u> <u><i>Mueller v. Allen</i></u> <u><i>Zobrest v. Catalina</i></u> <u><i>Agostini v. Felton</i></u> <u><i>Mitchell v. Helms</i></u> <i>Zelman v. Simmons-Harris</i>, 536 U.S. 639, 122 S.Ct. 2460, 166 Educ. L. Rep. 30 (2002) [read the majority opinion (in book), Souter’s dissent and Breyer’s dissent]. <u><i>Locke v. Davey</i></u></p> <p>*Final project proposal due.</p>

Session	Date	Topic	Readings and Assignments
4	Sept. 23	Separation of Church and State (Prayer Cases)	<p>Readings: Chapter 5 (pp. 244-289)</p> <p><i>McCullum v. Bd. Of Ed.</i> <i>Abington Township v. Schempp</i> <i>Wallace v. Jaffree</i> <u><i>Lee v. Weisman</i></u> <u><i>Santa Fe Independent School District v. Doe</i></u> <u><i>Bd. of Educ. of Westside v. Mergens</i></u> <u><i>Lamb's Chapel v. Center Moriches</i></u> (pp. 431-434) <u><i>Good News Club v. Milford Central School</i></u> <u><i>West Virginia State Bd. of Ed. v. Barnette</i></u> <i>Elk Grove Unified School District v. Newdow</i>, 542 U.S. 1, 124 S.Ct. 2301 (2004).</p>
5	Sept. 30	Compulsory Education and Curricular Control	<p>Readings: Chapter 6 (pp. 290-291) & Chapter 7 (pp. 344-379;388-402)</p> <p><u><i>Pierce v. Society of Sisters</i></u> <u><i>Wisconsin v. Yoder</i></u> <i>Murphy v. Arkansas</i> <i>In re Interest of Rebekah T.</i> <i>Maack v. Sch. Dist. of Lincoln</i> <i>Andrews v. Webber</i> <u><i>Meyer v. Nebraska</i></u> <i>Immediato v. Rye Neck Sch. Dist.</i> <u><i>Bd. of Ed. of Island Trees v. Pico</i></u> <i>Counts v. Cedarville</i> <i>Mozert v. Hawkins</i> <u><i>Edwards v. Aguillard</i></u> <i>Kitzmiller v. Dover (Learn@UW)</i> <i>Debra P. v. Turlington</i></p> <p>*Library Research Exercise Due</p>
6	Oct.7	Discrimination (Race,)	<p>Readings: Chapter 19 (1018-1042); Chapter 20 (1056-1063)</p> <p><u><i>Brown v. Board of Education</i></u> <i>Taxman v. Bd. of Ed.</i> (pp. 937-942) <u><i>Parents Involved In Community Schools v. Seattle</i></u>, --- U.S. ---, 127 S.Ct. 2738 (2007). [an edited version of Roberts' opinion appears in the textbook] Everyone read the syllabus of the opinion We will jigsaw the opinions</p> <p>Group A: Roberts' & Kennedy's opinions Group B: Breyers' opinion Group C: Thomas' & Stevens' opinions</p> <p>* Critique #1 Due</p>

Session	Date	Topic	Readings and Assignments
7	Oct. 14	Discrimination (Language, Alienage, Poverty Gender, Sexual Orientation)	<p>Readings: Chapter 9 (pp. 536-554); Chapter 20 (1070-1085)</p> <p><u>Lau v. Nichols</u> (pp. 408-410) <u>Plyler v. Doe</u> (pp. 292-296)</p> <p><u>San Antonio ISD v. Rodriguez</u> (pp. 105-108) <u>Kukor v. Grover</u> (Learn@UW) <u>Vincent v. Voight</u> (Learn@UW)</p> <p><u>Franklin v. Gwinnet</u> <u>Gebser v. Lago Vista ISD</u> <u>Davis v. Monroe</u> <u>Sauls v. Pierce County</u> <u>Jackson v. Birmingham Bd. of Educ.</u> (pp. 946-951) <u>Nabozny v. Podlesny</u>, 92 F.3d 446, 111 Ed. Law Rptr. 740 (7th Cir. 1996).</p> <p>Case Argument</p>
8	Oct 21	Discrimination (disability) & Special Education	<p>Readings: Chapter 10 (pp.561-617; 627-637)</p> <p><u>School Board of Nassau County v. Arline</u> (pp. 971-974) <u>Martinez v. Hillsborough County</u> <u>Rothschild v. Grottenthaler</u> (Learn@UW)</p> <p><u>Mills v. Bd. of Ed.</u> <u>Hendrick Hudson v. Rowley</u> <u>Timothy W. v. Rochester</u> <u>Alvin ISD v. A.D.</u> <u>Lachman v. Illinois</u>, 852 F. 2d 290 (7th Cir. 1988). <u>School Committee of Burlington v. Department of Education</u>, 471 U.S. 359, 105 S.Ct. 1996, 23 Ed. Law Rep. 1189 (1985). <u>Sacramento v. Rachel H.</u>, 14 F. 3d 1398, 89 Ed. Law Rep. 57 (9th Cir. 1994). <u>Bd. Of Ed. Of Murphysboro v. Illinois</u> (Learn@UW) <u>Beth B. Van Clay</u> <u>Irving I.S.D. v. Tatro</u> <u>Cedar Rapids Community School District v. Garret F.</u></p> <p>Recommended: Mead, Julie F. & Risch, Judith (2008). “Fundamentals of Federal Disability Law.” <i>The Principal’s Legal Handbook, 4th Edition</i>. Lane, Kenneth, Mead, Julie F., Gooden, Mark & Eckes, Suzanne, editors, Education Law Association, Dayton, Ohio</p>

Session	Date	Topic	Readings and Assignments
9	Oct. 28	Student Freedoms	<p>Readings: Chapter 3 (pp. 98-103); Chapter 8</p> <p><i>Flory v. Smith</i> (Learn@UW) <i>Tinker v. DesMoines Ind. School Dist.</i> <i>Bethel School District No. 403 v. Frasier</i> [read the majority opinion in your book and the concurrence by Justice Brennan available at: 478 U.S. 675, 687 (1986)] <i>Morse v. Frederick</i> <i>Scott v. School Bd.</i> <i>Hazelwood v. Kuhlmeier</i> <i>Wisniewski v. Bd. of Ed.</i> <i>Beussink v. Woodland R-IV Sch. Dist.</i> <i>New Jersey v. T.L.O.</i> <i>Vernonia v. Acton</i> <i>DeRoches v. Caprio</i> (Learn@UW) <i>Isiah B. v. Wisconsin</i> (Learn @ UW) <i>In Re Angelia D.B.</i>, 564 N.W.2d 682 (Wis. 1997). <i>Willis v Anderson</i> (Learn@UW) <i>Bd. of Ed. v. Earls</i>, 536 U.S. 822, 122 S.Ct. 2559 (2002). (read the majority opinion in book and Ginsburg’s dissent)</p> <p>Case Argument * Critique #2 Due</p>
10	Nov. 4 Don’t forget to VOTE!	Student Discipline	<p>Readings: Chapter 9 (pp. 501-536); Chapter 10 (pp. 617-622)</p> <p>Miller, M.B. (2008). Disciplining Students with Disabilities, in <i>The Principal’s Legal Handbook, 3rd Edition</i>, K. Lane, M.J. Connelly, J.F. Mead, M.A. Gooden, and S. Eckes, Editors., Dayton, OH: Education Law Association.</p> <p><i>Ingraham v. Wright</i> <i>Garcia v. Miera</i> (Learn@UW) <i>Goss v. Lopez</i> <i>Campbell v. Bd. Of Ed.</i> (pp. 404-407). <i>Dunn v. Fairfield</i> <i>South Gibson v. Sollman</i> <i>Honig v. Doe</i> <i>S-I v. Turlington</i> (Learn@UW) <i>Light v. Parkway</i> (Learn@UW)</p>

Session	Date	Topic	Readings and Assignments
11	Nov. 11	Certification and Contracts	<p>Readings: Chapter 14</p> <p><i>Ambach v. Norwick</i> <i>Wardwell v. Bd. of Ed.</i> <i>Application of Bay</i> <i>Erb v. Iowa</i> <i>Scheer v. ISD No. I-26 of Ottawa Cty.</i> <i>Appeal of Santee</i> <i>Collins v. Faith Sch. Dist. #46-2</i> <i>Toney v. Fairbanks North Star Bd. of Ed. of Hopkins Cty v. Wood</i> <i>Gaylord v. Tacoma School District</i> <i>Zoll v. Eastern Allamakee</i> <i>State v. Project Principle</i></p> <p>* Policy Project Concept Map or Outline <u>plus</u> bibliography due.</p>
12	Nov. 18	Employee Freedoms	<p>Readings: Chapter 15</p> <p><i>Keeffe v. Geanakos</i> (pp. 383-385) <i>Fowler v. Bd. Of Ed.</i> (Learn@UW) <i>Boring v. Buncombe County</i>(pp. 385-388) <u><i>Pickering v. Bd. of Education</i></u> <i>Lee v. York Cty. Sch. Division</i> <i>Mayer v. Monroe County Community School Corp.</i> <u><i>Mt. Healthy v. Doyle</i></u> <i>Givhan v. Western Line</i> <i>Stroman v. Collector Cty Sch. Dist.</i> <i>Seemuller v. Fairfax County</i> <i>Knox Cty. Ed. Assoc. v. Knox Cty. Bd. Of Ed.</i> <i>Cooper v. Eugene</i> <i>Barret v. Steubenville</i></p>
13	Nov. 25	Employee Dismissal	<p>Readings: Chapter 16; Schulze, E., Constructive Discharge of School Employees, 118 Ed. Law Reporter 805, (1997).</p> <p><u><i>Board of Regents v. Roth</i></u> <u><i>Perry v. Sindermann</i></u> <u><i>Cleveland v. Loudermill</i></u> <u><i>Hortonville v. Hortonville</i></u> (p. 138-140) <u><i>Keyishian v. Bd. of Regents</i></u> (Learn@UW) <i>Connell v Higginbotham</i> <i>Cleveland v. LaFluer</i></p> <p>* Employee Discipline draft due.</p>

Session	Date	Topic	Readings and Assignments
14	Dec. 2	Student Records Child Abuse Copyright	<p>Readings:</p> <p><u>Student Records:</u> Chapter 12 (pp. 718-729) DPI Memo on Pupil Records (Learn@UW) <i>Fay v. South Colonie Sch. Dist.</i>(Learn@UW) <i>Owasso Independent School Dist. No. 1-011 v. Falvo</i></p> <p><u>Child Abuse:</u> Chapter 9 (pp. 554-560) Underwood, J. & Webb, L.D. (2006). Legal Responsibilities of Teachers in <i>School Law for Teachers: Concepts & Applications</i> (pp. 79-86). Boston: Pearson <i>Arkansas Dept. of Human Services v. Caldwell</i> <i>DeShaney v. Winnebago</i>, 489 U.S. 189, 109 S. Ct. 998 (1989).</p> <p><u>Copyright:</u> Underwood, J. & Webb, L.D. (2006). Legal Responsibilities of Teachers in <i>School Law for Teachers: Concepts & Applications</i> (pp. 86-98). Boston: Pearson</p>
15	Dec. 9	Student Project Presentations	* Project Presentations
16	Dec. 16	No Class – Finals Week	Complete final projects in lieu of final exam * Project Papers due. * All Assignments due in final form.