Teachers & The Law: Practical Application of Legal Concepts

Course Outline

“It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate…In our system, state operated schools may not be enclaves of totalitarianism.” Justice Fortas in Tinker v. Des Moines (1969)

Course Description
Teachers and the Law is specifically tailored for classroom teachers in the public schools. Traditional school law courses usually approach the content of school law from the perspective of school administrators. The intent of this course is to examine the legal system and the role it plays in the educational setting for the teacher rather than from the viewpoint of the building or district level administrator. The majority of the content will focus on the practical application of legal concepts and how they apply to the numerous daily decisions teachers must make. Most teachers are deficient in knowledge of laws that affect them and the legal system in general. This lack of knowledge is not due to anything that teachers have not done but is due to a lack of opportunities for teachers to learn about school laws that affect them. The goal of this course is to provide teachers with up-to-date and relevant information so they will be knowledgeable in school law issues that impact teachers.

Objectives
- Analyze where our laws originate.
- Differentiate the basic structure of the legal system in the U. S.
- Classify legal terms.
- Evaluate the general criteria used for granting teachers tenure status.
- Determine the usual rights teachers acquire when they achieve tenure.
- Construct examples of how tenure can be broken.
- Analyze the process that must be followed, the type of notice(s) that must be received, the due process rights of the teachers, and the type of hearing(s) that must be held before tenured teachers can be dismissed.
- Differentiate between the rights of probationary and tenured teachers with respect to non-renewal of contracts.
- Discriminate between property and liberty interests.
- Specify fair use for printed matter; detail the exceptions for teachers; explain when teachers may copy for use in the classroom, how many copies can be made, and how often; and explain the penalties for copyright infringement.
- Appraise the fair use exceptions to the copyright law pertaining to libraries.
- Analyze when a teacher might be found personally liable for the injury of a student and what action(s) a teacher might take to prevent the liability suit from being successful.
- Define and explain the appropriate uses for the following defenses: contributory negligence, comparative negligence, assumption of risk, and governmental immunity.
- Analyze the concepts of: "punitive damages," "compensatory damages," and "nominal damages," giving examples when each type might be awarded and the conditions under which punitive damages might apply.
- Summarize the rights of students and teachers under Section 1983 of the U.S. Code.
- Compare the difference between slander and libel and the manner in which damages are determined and the types of damages usually assessed.
- Illustrate why the courts have found differently on application of the Constitution to the conflict between the rights of teachers and those of students concerning religious freedom.
- Compare and contrast the concepts of establishment of religion and exercise of religion and describe situations when each of these might occur in the course of the school year.
- Analyze specific scenarios found in public schools to determine if the scenario violates the Lemon test.
- Identify occasions on which religious literature may be distributed at school and occasions on which religious groups may or may not be excluded from using school facilities.
- Compare and contrast the concepts of personal interest and public interest in light of Pickering and Connick, explaining when s/he might be punished or dismissed for publicizing his/her views.
- Assess, given specific scenarios, the four step balancing test used by courts to determine when teachers' speech is protected and when it is not.
- Analyze the concept of academic freedom and compare and contrast the relative amounts of academic freedom given to teachers in the areas of controversial materials, textbooks, literary classics, religious beliefs, personnel issues, distribution of irrelevant materials, rated films and videos, and language.
- Examine the rights to free speech determined in Tinker and, given specific examples, whether the speech is protected or not.
- Distinguish the conditions under which administrators and teachers may regulate student publications, either school-sponsored or underground, and those under which they may not.
- Compare and contrast the position of the courts concerning grooming standards and dress codes as they relate to teachers and students.
- Defend why schools can require school uniforms.
- Construct situations under which a teacher could most likely be dismissed for political and social affiliations and those under which the teacher could not be dismissed.
- Assess the concept of freedom of association as it applies to teachers.
- Devise situations in which a teacher may be dismissed for exhibiting immoral behavior, including, but not limited to, excessive drinking, use of illegal drugs, lying, pre-marital sex and pregnancy, and homosexual behavior.
- Devise situations in which a teacher might be dismissed for exhibiting immoral behavior or unprofessional conduct towards students, including, but not limited to, making sexual advances, using vulgar or profane language, engaging in sexual conduct with students, and encouraging students to lie.
- Evaluate the components of due process as described in the Fifth and Fourteenth Amendments.
- Design examples of the following concepts: substantive due process, procedural due process, minimal due process, and formal due process.
- Compare and contrast the concepts found in probable cause versus those found in reasonable suspicion.
• Compare and contrast the rights to due process, upon termination, of tenured teachers versus those of non-tenured teachers, giving justification for the differences.
• Evaluate the concept of in loco parentis and also explain both the responsibility and freedom it places upon the teacher.
• Evaluate the current law regarding random drug testing of teachers and students.
• List the remedies available to a victim of sex discrimination under Title VII.
• Distinguish the conditions under which a school district may be held liable for student-to-student peer sexual harassment.
• Discuss the impact of the Family and Medical Leave Act of 1993.
• Outline the due process rights that the parent of a special education student has under P.L. 94-142/IDEA.
• Compare and contrast the concepts of least restrictive educational alternative and appropriate educational opportunity.
• Relate how the IEP is appropriate and explain its purpose.
• Compare the relationship between the issues of related services and appropriate educational opportunity.
• Describe the procedures necessary before a disabled child can be suspended for ten or more days.
• Examine the impact of the American with Disabilities Act on schools.
• Compare and contrast the rights of parents and the interest of the state regarding home schooling.
• Describe the rights of boards of education to dictate curriculum and whether parents have a right to protect their children from curriculum they feel is objectionable.
• Identify issues such as school vouchers and charter schools.
• Analyze the basic precepts of the No Child Left Behind Act and laws establishing rights for homeless students.
• Follow contemporary trends governing the rise of charter schools, school vouchers, and other school choice alternatives.
• Apply previously learned concepts to identify and describe new and emerging issues in school law.
• Review specific state laws that impact participants in the course.

Curriculum Design & Time Requirements
Participants in this course will be involved in a variety of task and activities to complete the course requirements including lectures, readings, individual and group discussions, reflective written and oral activities, applied practice assignments and cooperative learning groups. Teachers & the Law is a 3 credit graduate level or forty-five hour professional development course taught on weekends or over five full days.

Course Materials
The required textbook is Teachers and the Law by Louis Fischer, David Schimmel, and Leslier R. Stellman published by Pearson Education Inc. A variety of readings will be referenced throughout the course.
Session Outline

Session 1: The Teacher and the Legal System
Contents:
1. Analyze where our laws originate.
2. Differentiate the basic structure of the legal system in the U. S.
3. Classify legal terms.

Session 2: How Secure is my Employment? How Does Copyright Law Affect Me?
Contents:
1. Evaluate the general criteria used for granting teachers tenure status.
2. Determine the usual rights teachers acquire when they achieve tenure.
3. Construct examples of how tenure can be broken.
4. Analyze the process that must be followed, the type of notice(s) that must be received, the due process rights of the teachers, and the type of hearing(s) that must be held before tenured teachers can be dismissed.
5. Differentiate between the rights of probationary and tenured teachers with respect to non-renewal of contracts.
6. Discriminate between property and liberty interests.
7. Specify fair use for printed matter; detail the exceptions for teachers; explain when teachers may copy for use in the classroom, how many copies can be made, and how often; and explain the penalties for copyright infringement.
8. Appraise the fair use exceptions to the copyright law pertaining to libraries.

Session 3: When Am I liable? What Constitutes Slander and Libel?
Contents:
1. Analyze when a teacher might be found personally liable for the injury of a student and what action(s) a teacher might take to prevent the liability suit from being successful.
2. Define and explain the appropriate uses for the following defenses: contributory negligence, comparative negligence, assumption of risk, and governmental immunity.
3. Explain the concepts of: "punitive damages," "compensatory damages," and "nominal damages," giving examples when each type might be awarded and the conditions under which punitive damages might apply.
4. Summarize the rights of students and teachers under Section 1983 of the U.S. Code.
5. Explain the difference between slander and libel and the manner in which damages are determined and the types of damages usually assessed.

Session 4: When Can Schools Limit Religious Freedom?
Contents:
1. Explain why the courts have found differently on application of the Constitution to the conflict between the rights of teachers and those of students concerning religious freedom.
2. Compare and contrast the concepts of establishment of religion and exercise of religion and describe situations when each of these might occur in the course of the school year.
3. Analyze specific scenarios found in public schools to determine if the scenario violates the Lemon test.
4. Identify occasions on which religious literature may be distributed at school and occasions on which religious groups may or may not be excluded from using school facilities.
Session 5: Teachers’ and Students’ Freedom of Expression Rights

Contents:
1. Compare and contrast the concepts of personal interest and public interest in light of Pickering and Connick, explaining when s/he might be punished or dismissed for publicizing his/her views.
2. Explain, given specific scenarios, the four step balancing test used by courts to determine when teachers’ speech is protected and when it is not.
3. Explain the concept of academic freedom and compare and contrast the relative amounts of academic freedom given to teachers in the areas of controversial materials, textbooks, literary classics, religious beliefs, personnel issues, distribution of irrelevant materials, rated films and videos, and language.
4. Examine the rights to free speech determined in Tinker and, given specific examples, whether the speech is protected or not.
5. Explain the conditions under which administrators and teachers may regulate student publications, either school-sponsored or underground, and those under which they may not.

Session 6: When Can Schools Restrict Personal Appearance? When Can Schools Limit Freedom of Association? How Free is my Personal Life?

Contents:
1. Compare and contrast the position of the courts concerning grooming standards and dress codes as they relate to teachers and students.
2. Explain why schools can require school uniforms.
3. Construct situations under which a teacher could most likely be dismissed for political and social affiliations and those under which the teacher could not be dismissed.
4. Explain the concept of freedom of association as it applies to teachers.
5. Devise situations in which a teacher may be dismissed for exhibiting immoral behavior, including, but not limited to, excessive drinking, use of illegal drugs, lying, pre-marital sex and pregnancy, and homosexual behavior.
6. Devise situations in which a teacher might be dismissed for exhibiting immoral behavior or unprofessional conduct towards students, including, but not limited to, making sexual advances, using vulgar or profane language, engaging in sexual conduct with students, and encouraging students to lie.

Session 7: What Are My Rights under Due Process? Are Teachers and Students Protected against Sex Discrimination?

Contents:
1. Explain the components of due process as described in the Fifth and Fourteenth Amendments.
2. Design examples of the following concepts: substantive due process, procedural due process, minimal due process, and formal due process.
3. Compare and contrast the concepts found in probable cause versus those found in reasonable suspicion.
4. Compare and contrast the rights to due process, upon termination, of tenured teachers versus those of non-tenured teachers, giving justification for the differences.
5. Explain the concept of in loco parentis and also explain both the responsibility and freedom it places upon the teacher.
6. Explain the current law regarding random drug testing of teachers and students.
7. List the remedies available to a victim of sex discrimination under Title VII.
8. Explain the conditions under which a school district may be held liable for student-to-student peer sexual harassment.
9. Discuss the impact of the Family and Medical Leave Act of 1993

Session 8: Students with Disabilities and Non-English Speaking Students. Who Controls Students’ Records
Contents:
1. Outline the due process rights that the parent of a special education student has under P.L. 94-142/IDEA.
2. Compare and contrast the concepts of least restrictive educational alternative and appropriate educational opportunity.
3. Explain the purpose of the individual educational plan and how the IEP is related to an appropriate education.
4. Explain the relationship between the issues of related services and appropriate educational opportunity.
5. Describe the procedures necessary before a disabled child can be suspended for ten or more days.
7. Summarize the impact of the Bilingual Education Act of 1974 and its 1988 Amendment on schools

Session 9: Do Parents Have Choices in Educating Their Children? No Child Left Behind and Current Controversies
Contents:
1. Compare and contrast the rights of parents and the interest of the state regarding home schooling.
2. Describe the rights of boards of education to dictate curriculum and whether parents have a right to protect their children from curriculum they feel is objectionable.
3. Become familiar with issues such as school vouchers and charter schools.
4. Understand the basic precepts of the No Child Left Behind Act and laws establishing rights for homeless students.
5. Follow contemporary trends governing the rise of charter schools, school vouchers, and other school choice alternatives.
6. Apply previously learned concepts to identify and describe new and emerging issues in school law.

Session 10: Individual State Laws, Course Evaluation, and Final Examination
Contents:
1. Review specific state laws that impact participants in the course
2. Successfully complete the course examination

Grading
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<tr>
<th>Assignment</th>
<th>Points</th>
<th>Grading Scale</th>
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<tbody>
<tr>
<td>Attendance and Classroom Participation</td>
<td>15</td>
<td>100 – 93</td>
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<tr>
<td>Reading/Written Assignments</td>
<td>65</td>
<td>92 – 85</td>
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<tr>
<td>Final Exam</td>
<td>20</td>
<td>84 – 77</td>
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Student Requirements
1. Actively participate in all activities.
2. Reading/Written Assignments - Complete all assignments as directed by instructor.
3. Examination – Successfully complete the end of course examination.

Student Academic Integrity
Participants guarantee that all academic class work is original. Any academic dishonesty or plagiarism (to take ideas, writings, etc. from another and offer them as one's own), is a violation of student academic behavior standards as outlined by our partnering colleges and universities and is subject to academic disciplinary action.