

In recent years public school teachers have been made painfully aware that the law defines, limits, and prescribes many aspects of a teacher's daily life. Schools are no longer protected domains where teachers rule with impunity; ours is an age of litigation. Not only are parents and students ready to use the courts for all manner of grievances against school and teacher, the growing legislation itself regulates more and more of school life. In addition to an unprecedented number of laws at all levels of government, the mind-boggling array of complex case law principles (often vague and contradictory) adds to the confusion for the educator.

The Ten Commandments of School Law described below are designed to provide the concerned and bewildered teacher with some significant general guidelines in the classroom. While statutes and case law principles may vary from state to state or judicial circuit to judicial circuit, these school law principles have wide applicability in the United States today.

### **Commandment I: Thou Shalt Not Worship in the Classroom**

This may seem something of a parody of the Biblical First Commandment—and many teachers hold that indeed their religious freedom and that of the majority of students has been limited by the court cases prohibiting prayer and Bible reading—but the case law principles here have been designed to keep public schools *neutral* in religious matters. The First Amendment to the Constitution, made applicable by the Fourteenth Amendment to state government (and hence to public schools, which are agencies of state government), requires that there be no law "respecting the establishment of religion or prohibiting the free exercise thereof." As the Supreme Court declared in the *Everson* decision of 1947, "Neither [a state nor the federal government] can pass laws which aid one religion, aid all religions, or prefer one religion over another." Such rules, said the Court, would violate the separation of church and state principle of the First Amendment. Further, the Court argued in the later *Schempp* and *Murray* decision (1963), the

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## *The Teacher's Ten Commandments: School Law in the Classroom*

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free exercise clause of the First Amendment "has never meant that a majority could use the machinery of the state to practice its beliefs." Finally, in that same decision about prescribed Bible reading and prayer, the Court said that "what our Constitution indispensably protects is the freedom of each of us, be he Jew or agnostic, Christian or atheist, Buddhist or freethinker, to believe or disbelieve, to worship or not to worship, to pray or keep silent, according to his own conscience, uncoerced and unrestrained by government."

The application of this neutrality principle to education has resulted in some of the following guidelines for public schools:

1. Students may not be required to salute the flag nor to stand for the flag salute, if this conflicts with their religious beliefs.
2. Bible reading, even without comment, may not be practiced in a public school when the intent is to promote worship.

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3. Prayer is an act of worship and as such cannot be a regular part of opening exercises or other aspects of the regular school day.

4. Worship services (e.g., prayer and Bible reading) are not constitutional even if voluntary rather than compulsory. Not consensus, nor majority vote, nor excusing objectors from class or participation makes these practices legal.

On the other hand, public schools *may* offer courses in comparative religion, history of religion, the Bible as literature, etc., since these would be academic experiences rather than religious ones. "Released-time" programs during school hours for outside-of-school religious instruction have been held to be constitutional by the Supreme Court (*Zorach v. Clauson*, 1952). The constitutionality of such "gray area" practices as religious holidays and pageants (e.g., Christmas programs), silent meditation, and teaching the Genesis concept of "special creation" of man in science classes as an alternative to evolution<sup>1</sup> have not been clearly determined by the courts to date, but any religious program or practice is suspect in a public school.

### Commandment II: Thou Shalt Not Abuse Academic Freedom

Under First Amendment protection, teachers are given the necessary freedom and security to use the classroom as a forum for the examination and discussion of ideas. Freedom of expression is a prerequisite for education in a democracy—and the schools, among other responsibilities, are agents of democracy. Students are citizens too, and they are also entitled to freedom of speech. As Justice Abe Fortas, who delivered the Supreme Court's majority opinion in the famous *Tinker* decision (1969), put it:

It can hardly be argued that either students or teachers shed their constitutional rights at the schoolhouse gate. . . . In our system state-operated schools may not be enclaves of totalitarianism. . . . [and] students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate.

Case law has developed over the years to define the parameters of free expression for both teachers and students:

1. Teachers may discuss controversial issues in the classroom if they are relevant to the curriculum, although good judgment is required. Issues that disrupt the educational process, are demonstrably inappropriate to the legitimate objectives of the curriculum, or are unreasonable for the age and maturity of the students may be prohibited by school officials.

2. Teachers may discuss current events, political issues, and candidates so long as neutrality and balanced consideration prevail. When teachers become advocates and partisans, supporters of a single position rather than examiners of all positions, they run the risk of censure.

3. A teacher may use controversial literature containing "rough" language but must "take care not to transcend his legitimate professional purpose" (*Mailoux v. Kiley*, 1971, U.S. District Court, Massachusetts). Again, courts will attempt to determine curriculum relevance, disruption of the educational process, and appropriateness to the age and maturity of the students. Reaction of parents is less important than the reaction of students. As one decision said, "With the greatest respect to such parents, their sensibilities are not the full measure of what is proper education" (*Keefe v. Geanakos*, 1969, First Circuit Court).

4. Teachers and students are increasingly (but not yet universally) guaranteed *symbolic* free speech, including hair length and beards, arm-bands, and buttons. Courts generally determine such issues in terms of the "substantial disruption" that occurs or is clearly threatened. Male teachers may, in any event, wear beards, although school policies may require these to be neat and well-groomed (see for example, *Finot v. Pasadena City Board of Education*, 1967, U.S. District Court, California). Dress codes for students are generally allowable when they are intended to provide for health, safety, and "decency." When they exist merely to promote the "tastes" of the teacher or administration, they have usually been struck down by the courts.

5. Teachers, in short, are free to deal with controversial issues (including politics and sex) and to use controversial methods and materials if these are educationally defensible, appropriate to the students, and not "materially and substantially" disruptive. Courts use a balancing test to determine when students' and teachers' rights to academic freedom must give way to the competing need of society to have reasonable school discipline.

### **Commandment III: Thou Shalt Not Engage in Private Activities that Impair Teaching Effectiveness**

Of all the principles of school law, this commandment is probably the most difficult to delineate with precision. The private and professional areas of a teacher's life have been, for the most part, separated by recent court decisions. A mere 60 years ago teachers signed contracts with provisions prohibiting marriage, falling in love, leaving town without permission of the school board, smoking cigarettes, loitering in ice-cream stores, and wearing lipstick. But now a teacher's private life is considered his own business. Thus, for example, many court cases have established that teachers have the same citizenship rights outside the classroom as any other person does.

Teachers, however, have always been expected by society to abide by high standards of personal conduct. Whenever a teacher's private life undermines effective instruction in the class, there is a possibility that the courts will uphold his dismissal from his job. To guard against this possibility, the teacher should consider some of the following principles:

1. A teacher may belong to any organization or association—but if he participates in illegal activities of that organization he may be dismissed from his job.

2. A teacher may write letters to newspapers criticizing school policies and his superiors—unless it can be shown that such criticism impairs morale or working relationships. In the landmark *Pickering* decision (1968), the Supreme

Court upheld a teacher who had written such a letter but pointed out that there was in this case "no question of maintaining either discipline by immediate supervisors or harmony among co-workers. . . ."

3. A teacher's private affairs do not normally disqualify him from teaching except to the extent that it can be shown that such affairs, as one court put it, "mar him as a teacher." If a teacher is immoral in public or voluntarily (or through indiscretion) makes known in public a private act of immorality, he may indeed be dismissed. Courts are still debating the rights of homosexual teachers, with decisions falling on both sides of this issue.

4. Laws which say that teachers may be dismissed for "unprofessional conduct" or "moral turpitude" are interpreted narrowly, with the burden of proof on the employer to show that the particular circumstances in a case constitute "unfitness to teach."

5. Whenever a teacher's private affairs include sexual involvement with students, it may be presumed that courts will declare that such conduct constitutes immorality indicating unfitness to teach.

### **Commandment IV: Thou Shalt Not Deny Students Due Process**

The Fourteenth Amendment guarantees citizens "due process of law" whenever the loss of a right is at stake. Since education has come to be considered such a right (a "property" right), and since students are considered to be citizens, case law in recent years has defined certain procedures to be necessary (see the Supreme Court's 1967 *In re Gault* case for rights of juveniles in the justice system) in providing due process in particular situations:

1. A rule that is patently or demonstrably unfair or a punishment that is excessive may be found by a court to violate the "substantive" due process of a student (see, for example, the Supreme Court's 1969 *Tinker* decision). At the heart of due process is the concept of fair play, and teachers should examine the substance of their

rules and the procedures for enforcing them to see if both are reasonable, nonarbitrary, and equitable.

2. The extent to which due process rights should be observed depends on the gravity of the offense and the severity of punishment that follows. The Supreme Court's *Goss v. Lopez* decision (1975) established minimal due process for suspensions of 10 days or less, including oral or written notice of charges and an opportunity for the student to present his side of the story.

3. When a student is expelled from school, he should be given a statement of the *specific* charges and the grounds for expulsion, a formal hearing, names of witnesses against him, and a report of the facts to which each witness testifies (see the leading case, *Dixon v. Alabama State Board of Education*, 1961). Furthermore, it is probable that procedural due process for an expelled student gives him the right to challenge the evidence, cross-examine witnesses, and be represented by counsel. (See, for example, the New York Supreme Court's 1967 *Goldwyn v. Allen* decision.) Finally, such a student may appeal the decision to an impartial body for review.

It is advisable for schools to develop written regulations governing procedures for such areas as suspension, expulsion, discipline, publications, and placement of the handicapped. The teacher should be aware of these regulations and should provide his administration with specific, factual evidence whenever one of his students faces a serious disciplinary decision. The teacher is also advised to be guided by the spirit of due process—fairness and evenhanded justice—when dealing with less serious incidents in the classroom.

#### **Commandment V: Thou Shalt Not Punish Behavior Through Academic Penalties**

It is easy for teachers to lose sight of the distinction between punishing and rewarding academic *performance*, on the one hand, and disciplinary *conduct* on the other. Grades, for example, are frequently employed as motivation for both study behavior and paying-attention behavior. There is a great temptation for teachers to use

one of the few weapons still in their arsenal (i.e., grades) as an instrument of justice for social infractions in the classroom. While it may indeed be the case that a student who misbehaves will not perform well academically *because* of his conduct, courts are requiring schools and teachers to keep those two domains separate.

In particular, teachers are advised to heed the following general applications of this principle:

1. Denial of a diploma to a student who has met all the academic requirements for it but who has broken a rule of discipline is not permitted. Several cases (going back at least as far as the 1921 Iowa *Valentine* case) are on record to support this guideline. It is also probable that exclusion from a graduation ceremony as a punishment for behavior will not be allowed by the courts.

2. Grades should not be reduced to serve disciplinary purposes. In the *Wermuth* case (1965) in New Jersey, the ruling against such a practice included this observation by the state's commissioner of education: "Whatever system of marks and grades a school may devise will have serious inherent limitations at best, and it must not be further handicapped by attempting to serve disciplinary purposes too."

3. Lowering grades—or awarding zeros—for absences is a questionable legal practice. In the recent Kentucky case of *Dorsey v. Bale* (1975), a student had his grades reduced for unexcused absences and, under the school's regulation, was not allowed to make up the work; five points were deducted from his nine weeks' grade for each unexcused absence. A state circuit court and the Kentucky Court of Appeals declared the regulation to be invalid. The courts are particularly likely to invalidate regulations that constitute "double jeopardy"—e.g., suspending a student for disciplinary reasons and giving him zeros while he is suspended.

In general, teachers who base academic evaluation on academic performance have little to fear in this area. Courts do not presume to challenge a teacher's grades *per se* when the consideration rests only on the teacher's right or ability to make valid *academic* judgments. There

have been cases, and we may expect to see more, against schools for failing to teach basic skills. Such "accountability" cases (like the *Peter Doe* case in California) may soon have a direct effect on grading and instructional practices.

### **Commandment VI: Thou Shalt Not Misuse Corporal Punishment**

Corporal punishment is a controversial method of establishing discipline. The Supreme Court refused to disqualify the practice under a recent suit (*Ingram v. Wright*, 1977) in which it was argued that corporal punishment was "cruel and unusual punishment" and thus a violation of the Constitution's Eighth Amendment. Presently, only Massachusetts and New Jersey prohibit corporal punishment in schools by state law, although Maryland bans it by state school board policy. Thirteen other states expressly permit corporal punishment, while the rest have some general provision authorizing teachers to maintain discipline.<sup>2</sup>

In those states not prohibiting corporal punishment, teachers may—as an extension of their *in loco parentis* authority—use "moderate" corporal punishment to establish discipline. There are, however, many potential legal dangers in the practice. *In loco parentis* is a limited, perhaps even a vanishing, concept, and teachers must be careful to avoid these misuses of corporal punishment if they want to stay out of the courtroom:

1. The punishment must never lead to permanent injury. No court will support as "reasonable" or "moderate" that physical punishment which permanently disables or disfigures a student. Many an assault and battery judgment has been handed down in such cases. Unfortunately for teachers, "accidents" that occur during corporal punishment and ignorance of a child's health problems (brittle bones, hemophilia, etc.) do not excuse a teacher for liability in most cases.

2. The punishment must not be unreasonable in terms of the offense, nor may it be used to enforce an unreasonable rule. The court examines all the circumstances in a given case to

determine what was or was not "reasonable" or "excessive."

3. The punishment must not be motivated by spite, malice, or revenge. Whenever teachers administer corporal punishment in a state of anger, they run a high risk of losing an assault and battery suit in court. Since corporal punishment is practiced as a method of correcting student behavior, any evidence that physical force resulted from a teacher's bad temper or quest for revenge is damning. On the other hand, in an explosive situation (e.g., a fight) a teacher may protect himself and use that force necessary to restrain a student from harming the teacher, others, or himself.

4. The punishment must not ignore such variables as the student's age, sex, size, and physical condition.

5. The punishment must not be administered with inappropriate instruments or to parts of the body where risk of injury is great. For example, a Texas case ruled that it is not reasonable for a teacher to use his fists in administering punishment. Another teacher lost a suit when he struck a child on the ear, breaking an eardrum. The judges noted, "Nature has provided a part of the anatomy for chastisement, and tradition holds that such chastisement should there be applied." It should be noted that creating mental anguish and emotional stress by demeaning, harassing, or humiliating a child may be construed as illegal punishment too.

6. While an earlier Supreme Court case, *Baker v. Owen* (1975), required procedural safeguards prior to paddling, the later *Ingraham* case overturned such requirements as hearings and notices in corporal punishment practices.

Courts must exercise a good deal of judgment in corporal punishment cases to determine what is "moderate," "excessive," "reasonable," "cruel," "unusual," "malicious intent," or "capricious." Some courts (e.g., in *Glaser v. Marietta*, 1972) have ruled that schools may not employ corporal punishment if a student's parents notify the school that they do not want it. Suffice it to say that educators should exercise great care in the use of corporal punishment.

## Commandment VII: Thou Shalt Not Neglect Students' Safety

One of the major responsibilities of any teacher is to keep his students safe from unreasonable risk of harm or danger. The majority of cases involving teachers grow out of negligence charges relating to the teacher's failure to supervise properly in accordance with his *in loco parentis* obligation (to act "in place of the parents"), his contractual obligations, and his professional responsibility. While the courts do not expect teachers to protect children from "unforeseeable accidents" and "acts of God," they do require teachers to act as a reasonably prudent teacher should in protecting students from possible harm or injury.

Negligence is a tort ("wrong") that exists only when the elements of *duty*, *violation*, *cause*, and *injury* are present. A teacher is generally responsible for using good judgment in determining what steps are necessary to provide for adequate supervision of the particular students in his charge, and the given circumstances dictate what is reasonably prudent in each case. A teacher who has a duty to his students but who fails to fulfill this duty because of carelessness, lack of discretion, or lack of diligence may violate his duty with a resultant injury to a student. In this instance the teacher may be held liable for negligence as the cause of the injury to the student.

Several guidelines can help teachers avoid this all-too-common and serious lawsuit:

1. Establish and enforce rules of safety in school activities. This is particularly important for the elementary teacher, since many injuries to elementary students occur on playgrounds, in hallways, and in classroom activity sessions. The prudent teacher anticipates such problems and establishes rules to protect students from such injuries. Generally, rules should be written down, posted, and taught.

2. Be aware of school, district, and state rules and regulations as they pertain to student safety. One teacher was held negligent when a child was injured because the teacher did not know

that there was a state law requiring safety glasses in a shop activity. It is also important that a teacher's own rules not conflict with regulations at higher levels. *Warn* students of any hazard in a room or in an instructional activity.

3. Enforce safety rules when violations are observed. In countless cases teachers have been found negligent when students repeatedly broke important safety rules, eventually injuring themselves or others, or when a teacher should have foreseen the danger but did not act as a "reasonably prudent" teacher would have in the same situation to correct the behavior. One teacher observing a mumblety-peg game at recess was held negligent for not stopping it before the knife bounced up and put out an eye of one of the players.

4. Provide a higher standard of supervision when students are younger, handicapped, and/or in a potentially dangerous activity. Playgrounds, physical education classes, science labs, and shop classes require particular care and supervision. Instruction must be provided to insure safety in accordance with the children's maturity, competence, and skill.

5. Learn first aid, because a teacher may be liable for negligence, if he does not get or give prompt, appropriate medical assistance when necessary. While a teacher should not give children medicine, even aspirin, he should, of course, allow any legitimate prescriptions to be taken *as prescribed*. There should be school policy governing such procedures.

6. Advise substitute teachers (and student teachers) about any unusual medical, psychological, handicapping, or behavioral problem in your class. If there are physical hazards in your class—bare light cords, sharp edges, loose boards, insecure window frames, etc.—warn everyone about these too. Be sure to report such hazards to your administration and janitorial staff—as a "prudent" teacher would do.

7. Be where you are assigned to be. If you have playground, hall, cafeteria, or bus duty, *be* there. An accident that occurs when you are someplace other than your assigned station may be blamed on your negligence, whereas if you had been

there it would not be so charged. Your responsibility for safety is the same for extracurricular activities you are monitoring as it is for classes.

8. If you have to leave a classroom (particularly a rowdy one), stipulate the kind of conduct you expect and make appropriate arrangements—such as asking another teacher to check in. Even this may not be adequate precaution in terms of your duty to supervise if the students are known to be troublemakers, are quite immature, or are mentally retarded or emotionally disturbed. You run a greater risk leaving a science class or a gym class than you do a social studies class.

9. Plan field trips with great care and provide for adequate supervision. Many teachers fail to realize that permission notes from home—no matter how much they disclaim teacher liability for injury—do not excuse a teacher from providing proper supervision. A parent cannot sign away this right of his child. Warn children of dangers on the trip and instruct them in rules of conduct and safety.

10. Do not send students on errands off school grounds, because they then become your agents. If they are injured or if they injure someone else, you may well be held liable. Again, the younger and less responsible the child, the greater the danger of a teacher negligence charge. To state the obvious, some children require more supervision than others.

Much of the advice above is common sense, but the “reasonably prudent” teacher needs to be alert to the many requirements of “due care” and “proper supervision.” The teacher who anticipates potentially dangerous conditions and actions and takes reasonable precautions—through rules, instruction, warnings, communications to superiors, and presence in assigned stations—will do a great deal to minimize the chances of pupil injury and teacher negligence.

#### **Commandment VIII: Thou Shalt Not Slander or Libel Your Students**

This tort is much less common than negligence, but it is an area of school law that can be trou-

blesome, especially under the recent “Buckley Amendment.” One of the primary reasons for the Family Educational Rights and Privacy Act (1974) was that school records contain so much misinformation and hearsay and so many untrue (or, at least, questionable) statements about children’s character, conduct, and morality that access to these records by students or their parents in order to correct false information seemed warranted. A teacher’s right to write anything about a student under the protection of confidential files no longer exists. Defamation of character through written communication is *libel* while such defamation in oral communication is *slander*. There are ample opportunities for teachers to commit both offenses.

Teachers are advised to be careful about what they say about students (let alone other teachers!) to employers, colleges, parents, and other personnel in the school. Adhere to the following guidelines:

1. Avoid vague, derogatory terms on permanent records and recommendations. Even if you do not *intend* to be derogatory, value judgments about a student’s character, lifestyle, or home life may be found defamatory in court. In one case, a North Carolina teacher was found guilty of libel when she said on a permanent record card that a student was “ruined by whiskey and tobacco.” Avoid characterizing students as “crazy,” “immoral,” or “delinquent.”

2. Say or write only what you know to be true about a student. It is safer to be an objective describer of what you have observed than to draw possibly unwarranted and untrue conclusions and judgments. The truth of a statement is strong evidence that character has not been defamed, but in some cases where the *intent* has been to malign and destroy the person, truth is not an adequate defense.

3. Communicate judgments of character only to those who have a right to the information. The teacher has “qualified privileged communication,” which means that so long as he communicates in good faith information that he believes to be true to a person who has reason

to have this information, he is protected. However, the slandering of pupils in a teachers' lounge bull session is another thing altogether.

4. If a student confides a problem to you in confidence, keep that communication confidential. A student who is on drugs, let us say, may bring you to court for defamation of character and/or invasion of privacy if you spread such information about indiscriminately. On the other hand, if a student confides that he has participated in a felonious crime or gives you information that makes you aware of a "clear and present" danger, you are obligated to bring such information to appropriate authorities. Find out the proper limits of communication and the authorized channels in your school and state.

5. As a related issue, be careful about "search and seizure" procedures too. Generally, school lockers are school property and may be searched by school officials, but to search a student—or require him to empty his pockets—probably violates the Fourth Amendment to the Constitution *unless* there exists an indication of a clear and present danger such as a bomb or weapon. Deleterious items such as drugs have also been allowable as cause for search and seizure by most courts.

Teachers need to remember that students are citizens and as such enjoy at least a limited degree of the constitutional rights that adult citizens enjoy. Not only "due process," "equal protection," and "freedom of religion" but also protection from teacher torts such as "negligence" and "defamation of character" is provided to students through our system of law. These concepts apply to all students, including those in elementary grades.

#### **Commandment IX: Thou Shalt Not Photocopy in Violation of Copyright Law**

On January 1, 1978, the recently revised copyright law went into effect and with it strict limitations on what may be photocopied by teachers for their own or classroom use under the broad concept of "fair use." In general, "fair use" of copyrighted material means that the use should

not impair the value of the owner's copyright by diminishing the demand for that work, thereby reducing potential income for the owner.

Because photocopying has become a standard practice for teachers in an era of technological wizardry, special attention should be given to the new requirements. In general, educators are given greater latitude than most other users: "Spontaneous" copying is more permissible than "systematic" copying. Students have greater latitude than teachers in copying materials.

A teacher may:

1. Make a *single* copy for his own research or class preparation of a chapter from a book; an article from a periodical or newspaper; a short story, poem, or essay; a chart, graph, diagram, cartoon, or picture from a book, periodical, or newspaper.

2. Make *multiple* copies for classroom use only (but not to exceed one copy per student) of a complete poem, if it is fewer than 250 words and printed on not more than two pages; an excerpt from a longer poem, if it is fewer than 250 words; a complete article, story, or essay, if it is fewer than 2,500 words; an excerpt from a prose work, if it is fewer than 1,000 words or 10% of the work, whichever is less; one chart, graph, diagram, drawing, cartoon, or picture per book or periodical.

However, a teacher may *not*:

1. Make multiple copies of work for classroom use if another teacher has already copied the work for use in another class in the same school.

2. Make copies of a short poem, article, story, or essay from the same author more than once in the same term.

3. Make multiple copies from the same collective work or periodical issue more than three times a term. (The limitations in items 1-3 do not apply to current news periodicals or newspapers.)

4. Make a copy of works to take the place of anthologies.



5. Make copies of "consumable" materials such as workbooks, exercises, answer sheets to standardized tests, and the like.

When teachers make brief, spontaneous, and limited copies of copyrighted materials other than consumables, they are likely to be operating within the bounds of fair use. Whenever multiple copies of copyrighted materials are made (within the guidelines above), each copy should include a notice of the copyright. Needless to say, some schools will abuse the new law. Enforcement of the requirements will be difficult, but that does not alter the legality of photocopying practices. Actually, the new copyright provisions for educators may be considered generous. A National Education Association spokesman said, "We achieved so much more in this legislation than we expected. It is a great victory for education."

#### Commandment X: Thou Shalt Not Be Ignorant of the Law

The axiom, "Ignorance of the law is no excuse," holds as true for teachers as anyone else. Indeed, courts are increasingly holding teachers to higher standards of competence and knowledge commensurate with their higher status as professionals. Since education is now considered a right—guaranteed to black and white, rich and poor, "normal" and handicapped—the legal parameters have become ever more important to teachers in this litigious era. As one recent school law text asserts:

Legal activism has found a home in the public schools. Not only are there more suits against teachers, there are also more types of suits against teachers. Furthermore, the educators are increasingly finding themselves in a position where they are called upon to go into court to protect themselves. Thus the teacher needs to know the extent of both rights and responsibilities not only in the classroom but in the world beyond.<sup>1</sup>

How, then, can the teacher become aware of the law and its implications for the classroom? Consider the following possibilities:

1. Sign up for a course in school law. If the local college or university does not offer such a course, attempt to have one developed.

2. Ask your school system administration to focus on this topic in inservice programs.

3. Tap the resources of the local, state, and national professional organizations for pertinent speakers, programs, and materials. The NEA, for example, publishes such monographs as *What Every Teacher Should Know About Student Rights*. Phi Delta Kappa publishes two "fastbacks" in this area, *Student Discipline and the Law* and *The Legal Rights of Students*.

4. Explore state department of education sources, since most states will have personnel and publications that deal with educational statutes and case law in your particular state.

5. Establish school (if not personal) subscriptions to professional journals. The *Phi Delta Kappan*, *Today's Education*, the *Journal of Law and Education*, and the *Mental Disability Law Reporter* are only a few of the journals that regularly have columns and/or articles to keep the teacher aware of new developments in school law.

6. Make sure that your school or personal library includes such books as E.C. Bolmeier's *Legality of Student Disciplinary Practices* (Michie, 1975) and *Judicial Excerpts Governing Students and Teachers* (Michie, 1977), Louis Fischer and David Schimmel's *The Civil Rights of Teachers* (Harper & Row, 1973) and *The Civil Rights of Students* (Harper & Row, 1975), Rennard Strickland's *Avoiding Teacher Malpractice* (Hawthorn, 1976), Perry A. Zirkel's *A Digest of Supreme Court Decisions Affecting Education* (Phi Delta Kappa, 1978), and Patricia A. Hollander's *Legal Handbook for Educators* (Westview, 1978). There are many other pertinent books, of course, including those by noted authorities such as Thomas Flygare, David Rubin, Chester Nolte, and Edmund Reutter.

The better informed teachers are about their legal rights and responsibilities the more likely they are to avoid the courtroom—and there are many ways to keep informed.

My Teacher's Ten Commandments are not exhaustive, nor are they etched in stone. School

law, like all other law, is constantly evolving and changing so as to reflect the thinking of the times<sup>4</sup>; and decisions by courts are made in the context of particular events and circumstances that are never exactly the same. But the prudent

professional will be well served by these commandments if he internalizes the spirit of the law as a guide to his actions as a teacher—in the classroom, the school, and the community.

1. For a discussion of this interesting educational and legal controversy, see my "Special Creation and Evolution in the Classroom: Old Wine in New Wineskins?" *School Science and Mathematics*, January, 1977, pp. 47-52.

2. For a comprehensive survey of corporal punishment practices in the various states, see Tobyann Boonin, "The Benighted Status of U.S. School Corporal Punishment Prac-

tice," *Phi Delta Kappan*, January, 1979, pp. 395, 396.

3. Rennard Strickland et al., *Avoiding Teacher Malpractice* (New York: Hawthorn Books, 1976), p. 6.

4. For a good treatment of changes and trends, see Daniel L. Duke et al., "Emerging Legal Issues Related to Classroom Management," *Phi Delta Kappan*, December, 1978, p. 305-09.

### Postnote

The United States is increasingly becoming a litigious society. Disagreements and disputes are more frequently brought to the courts to be settled, rather than being settled face to face by conflicting parties. In recent years, business owners and managers, doctors, and even lawyers have been held liable for various consequences and have been made defendants in malpractice suits. Such situations were almost unknown to their colleagues ten or twenty years ago. While relatively few teachers have been successfully prosecuted in the courts, the trend exists; it is important for teachers—both in training and in service—to be aware of areas of legal vulnerability. Although written in 1979, McDaniel's article is an excellent and compact summary of the legal situation confronting teachers.

### Discussion Questions

1. Before reading this article, were you aware that school law governed a teacher's behavior as much as it does?
2. In which of the areas described by McDaniel do you, personally, feel most vulnerable? Why? What can you do to protect yourself from legal entanglements?
3. In addition to federal laws affecting teachers, there are individual state laws as well. Can you identify any laws in your state that affect teachers?