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*Instructor's Manual with Test Bank
to accompany*

School Law and the Public Schools **5th Edition**

Nathan Essex

Southwest Tennessee Community College

Prepared by

Nathan Essex

Southwest Tennessee Community College



Boston Columbus Indianapolis New York San Francisco Upper Saddle River

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CHAPTER 1

LEGAL FRAMEWORK AFFECTING PUBLIC SCHOOLS

The Constitution, which is over 200 years old, continues to serve as the plan for American Government. It is considered to be the supreme law of the land. One of the most significant aspects of the Constitution is the Bill of Rights which provides information regarding the individual rights of U.S. Citizens. The Constitution also places restrictions on the powers of the government in relation to citizens' rights.

Students of school law should gain an understanding of the legal system that affects the operation of public schools. Since schools are considered governmental agencies, they are impacted by federal and state constitutions, federal and state statutes, and court decisions.

This chapter covers the basic sources of law and the relationship of each source of law to the operation of public schools. Each state has the responsibility to provide a free public school education for all children who reside within the state. The ultimate goal is to produce an educated citizenry that will benefit society.

Topical Outline of this Chapter

Sources of Law

State Agencies

Local Boards of Education

The U.S. System of Courts

Analysis of an Appellate Court Opinion

The Supreme Court

Legal Information Retrieval System

State Agencies

State legislatures in virtually all states have created administrative agencies to execute various laws and policies that affect public schools. One such agency is the State Board of Education. State Boards of Education govern the State Department. They have the responsibility for the development and management of public schools within their respective states. State legislatures who represent the legal authority in determining educational policy may delegate specific legal responsibilities to state boards.

Points of Emphasis:

1. State boards are often involved in setting certain standards for public schools.
2. State boards are closely involved in accreditation of state educational programs.
3. State boards may promulgate graduation requirements.
4. State boards may be responsible for implementing state testing and assessment programs.

Local Boards of Education

School boards are corporate bodies who are responsible for implementing legislative policy as well as formulating local policies governing schools as long as they do not conflict with state statutes. Board members are state officers who act as a body when conducting official business of the state. Most of their power is derived from the legislature either expressed or implied through proper delegation. Individual board members have no power beyond that which is provided to the board as a corporate body.

Points of Emphasis:

1. Local boards are responsible for formulating policies that facilitate the goals of their respective districts.
2. Their powers are granted by the legislature.
3. School boards in most jurisdictions are responsible for selecting a local superintendent.
4. The superintendent is accountable to the board and is responsible for executing board policy.
5. The board-superintendent relationship is best described as a legislative executive relationship.

Sources of Law

The organization and administration of public schools are determined by constitutions, statutes, case law, state agencies, and school board policies which are derived by state statute. This chapter discusses how the various sources of law shape the administration of schools and enable public schools to operate within the boundaries of the law. Students should understand the legal framework in which public schools operate and the significant role that all of these sources of law play in the successful management of public schools.

Beginning on page 3 of the text, there is a discussion of the primary sources of law followed by an analysis of the U.S. System of Courts on pages 7, 8, and 9. It is important that students understand the critical role the courts play in interpreting the law. An understanding of the powers and functions of the courts will enhance students' knowledge of the legal framework and how it impacts the management of public schools.

The U.S. System of Courts

Students must understand the hierarchy of the system of courts in the United States as well as their prescribed powers and functions to gain greater insight into the legal dimensions of school law. Since public schools are considered agents of the states, particular attention should be focused on the role of state courts in school matters that do not involve a federal question. Consequently, many education cases are heard in state courts for this reason. Students should pay attention to the map on page 7 which includes the federal circuit courts of appeal and understand that circuit court decisions only affect schools which are located in the particular circuit where the decision is rendered.

Analysis of an Appellate Court Opinion

This section covers the basic components of court opinions and is designed to facilitate an understanding of the court's ruling. A summary is presented of case citations, procedures by which a case reaches the courts, the facts of the case, the court's ruling, and justification as well as the disposition of the court.

A discussion of the U.S. Supreme Court's review process is presented on page 9 to enhance the student's understanding of the means by which cases are heard by the highest court in the land.

This Supreme Court Ritual section on page 10 briefly describes the inner workings of the highest court outlining voting procedures and the day to day duties of the Supreme Court justices.

The Supreme Court

This chapter ends with interpretation of U.S. Supreme Court decisions which enables students to readily identify Supreme Court rulings based on parallel citations as well as the sources by which a Supreme Court decision may be located for research purposes. Finally, a listing of all Supreme Court Justices is found on pages five and six. These listings may assist students in examining the court's ruling in light of the social and philosophical views of society. For example, patriotism was a high priority among most Americans during World War II. Many post World

War II cases focused on civil rights issues as the country began to become concerned with individual rights and freedoms. Additionally, some courts were more liberal while others were more conservative based on the composition of the court as reflected by the President's appointment of them and the Congress that confirmed the President's nomination.

Legal Information Retrieval System

Students who desire to research and retrieve law cases may do so using two primary legal retrieval systems: Westlaw and LexisNexis. Westlaw contains case law, state and federal statutes, administrative codes, and law journal reviews. It is the most comprehensive source and contains 40,000 data bases which are indexed to the West Key Number System. The Supreme Court Reporter, the Federal Reporter, and the Federal Supplement can be accessed through Westlaw's website, <http://www.westlaw.com/>.

LexisNexis is not as comprehensive as Westlaw but does contain legal information derived from newspapers, magazines, and legal documents. Public records, unpublished opinions and legal news are found in LexisNexis. One website, <http://www.Lexis.com>, is sought for legal research while the other, <http://www.Nexis.com>, is used by corporations, local, state and federal government as well as by academicians.

Multiple Choice

1. The primary source of individual rights stems from the:
 - a. 14th Amendment
 - b. Bill of Rights
 - c. 5th Amendment
 - d. State Constitutions
2. The U.S. Constitutional amendment that reserves the power of education to the state is the:
 - a. 5th
 - b. 10th
 - c. 1st
 - d. 14th
3. The Fourteenth Amendment was adopted in:
 - a. 1878
 - b. 1886
 - c. 1866
 - d. 1868
4. The U.S. Constitution is not:
 - a. A framework of law in which orderly governmental processes operate
 - b. The primary source of law
 - c. Subordinate to state constitutions, local regulations, and case law
 - d. The basic law of the land
5. Which key U.S. Constitutional amendment has a bearing on the operation of public schools?
 - a. First
 - b. Fourth
 - c. Fifth
 - d. Fourteenth
 - e. All of the above
6. State constitutions perform a number of functions with one exception:
 - a. Establishes a system of public education
 - b. Guarantees absolute personal rights
 - c. Prescribes funding and operational schemes for public schools
 - d. Restricts power of legislative bodies
7. A statute represents:
 - a. An act of the legislative branch of government
 - b. The most abundant source of law
 - c. The most viable source of new laws or revisions of existing law
 - d. All of the above
8. Case law is not based on:
 - a. Judge-made or common law
 - b. Local ordinances
 - c. Judgments, opinions, and decisions of courts
 - d. Frequent reliance on precedents
9. Common law precedents are driven by:
 - a. State constitutions
 - b. Legislatures
 - c. Federal constitution

- d. Courts
- 10. State agencies are created by:
 - a. State legislatures
 - b. State constitutions
 - c. Federal statute
 - d. Chief state school officer
- 11. State boards of education generally do not:
 - a. Establish certification standards for teachers and administrators
 - b. Review and approve local school district budgets
 - c. Establish high school graduation requirements
 - d. Establish state accreditation standards for school districts
- 12. Local school boards:
 - a. Develop school district policies
 - b. Provide a vision for the district
 - c. Formulate goals to support the district's mission and vision
 - d. All of the above
- 13. Courts in the United States do not:
 - a. Settle controversies through applying basic law principles to merge factional circumstances
 - b. Interpret legislative enactments
 - c. Determine policies, and regulations affecting public schools
 - d. Determine the constitutionality of statutes
- 14. U.S. Supreme Court decisions may be derived from:
 - a. United States Reporter
 - b. Supreme Court Reporter
 - c. United States Supreme Court Reporter—Lawyers' Edition
 - d. All of the above
- 15. The U.S. Supreme Court justices spend their time:
 - a. Listening to lawyer arguments
 - b. Discussing court business
 - c. Reviewing the U.S. Constitution
 - d. All but C

True or False Questions

- 1. The powers of the Federal Government are not delegated but are inherent powers. (Powers are delegated and are not inherent powers.)
___ True ___ False
- 2. Article VII of the Constitution declares the national government supreme. (Article VI).
___ True ___ False
- 3. The U.S. Constitution stipulates that no state shall enforce any law which abridges the privileges or immunities of citizens of the United States.
___ True ___ False
- 4. The Fourteenth Amendment is enforced by state or federal courts operating within their proper jurisdiction.
___ True ___ False

5. Federal Courts had no authority to enforce a State Bill of Rights that was under the jurisdiction of state courts prior to 1868.
☐ True ☐ False
6. The judicial system primarily includes federal courts.
☐ True ☐ False
7. Federal Courts address cases involving constitutional issues.
☐ True ☐ False
8. Courts are limited to cases or legal conflicts presented to them for resolution.
☐ True ☐ False
9. There are 11 (eleven) Federal Circuit Courts of Appeal.
☐ True ☐ False
10. There are 98 Federal District Courts in the United States.
☐ True ☐ False
11. A State Department of Education is an arm of the Chief State School Officer?
☐ True ☐ False
12. Local boards of education execute board policy.
☐ True ☐ False
13. Local board meetings are closed to the public except by invitation.
☐ True ☐ False
14. News media may be present during local school board executive sessions.
☐ True ☐ False

Fill in the Blank Questions

1. _____ represents the primary source of individual rights and freedoms under the U.S. Constitution.
2. _____ to the _____ are considered to represent fundamental liberties of free people.
3. The _____ represents the basic law of the land.
4. _____ represent the most abundant source of law affecting public schools.
5. In many instances, _____ decisions rely on past court decisions which are called _____.
6. State Boards of Education are agencies created by state _____ to execute various laws and policies governing public schools.
7. _____ are relied on by school personnel as a basic source of law for the operation and management of schools.
8. _____ are professional arms of states that provide consultation and technical support to local school districts.
9. _____ may not abrogate responsibilities delegated to them by state statute.

10. _____ is a judicial process where a case is moved from a lower court to a higher court.
11. The _____ is the party who initiates a legal suit.
12. Courts of general jurisdiction are often referred to as _____.

Essay Questions

1. What specific constitutional amendments pertain to education? Discuss the importance of each to the effective operation of public schools.
2. Discuss the significance of the separation of powers as prescribed by the Constitution. What are the ramifications of this concept to the management and operations of public schools?
3. Discuss the concept of “precedent” and its implication for court decisions affecting public schools.
4. What are the three essential functions of courts in the United States and what is the relevance of these functions to the administration of public schools as agents of the state?
5. Identify the two primary legal information retrieval systems and discuss how they may support legal research initiatives.