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Legal Rights of School Leaders, Teachers, and Students

Eighth Edition

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Introduction

The following exam questions may be used by instructors to assess students on the main ideas of *Legal Rights of School Leaders, Teachers, and Students*. We have included both multiple choice and essay questions for each chapter. Potential answers for the essay questions are listed immediately following each question; whereas the answer key for the multiple choice questions appears at the end of the test bank. We also suggest that instructors provide scenario-based examples to teach students how to apply the law to situations that occur in schools. Scenarios can be based on court cases found in each chapter or from current events.

Table of Contents

Chapter 1: Introduction to School Law	1
Chapter 2: Tort Liability	5
Chapter 3: Church/State Relations	9
Chapter 4: Instructional Issues	13
Chapter 5: Student Expression, Association, and Appearance	16
Chapter 6: Student Classifications	20
Chapter 7: Rights of Students with Disabilities	24
Chapter 8: Student Discipline	28
Chapter 9: Conditions of Employment and Collective Bargaining	32
Chapter 10: Employees' Substantive Constitutional Rights	36
Chapter 11: Discrimination in Employment	40
Chapter 12: Termination of Employment	43
Chapter 13: Alternatives to Increase Educational Choice	47
Multiple Choice Answer Key	
Chapters 1, 2, 3, 4, 5 & 6	51
Chapters 7, 8, 9, 10, 11, 12 & 13	52

Public School Law Test Bank

Below are multiple choice questions that are based on the readings in each chapter of the eighth edition of *Legal Rights of School Leaders, Teachers, and Students*.

Chapter 1: Introduction to School Law

1. What statutes (also known as statutory law)?
 - a. Laws that are created by the courts.
 - b. Laws that are created by federal agencies.
 - c. Laws that are created by Congress.
 - d. Laws that are created by state legislatures.
 - e. Both c and d are correct.
2. What is case or common law?
 - a. The collective body of law derived from court decisions.
 - b. The collective body of law derived from federal agency decisions.
 - c. The collective body of law derived from Congressional decisions.
 - d. The collective body of law derived from state legislature decisions.
 - e. Both a and b are correct.

3. What is the hierarchy of the federal court system (in order of lowest to highest court)?
 - a. U.S. Supreme Court, U.S. Circuit Court of Appeals, U.S. State Supreme Court
 - b. State Supreme Court, State Court of Appeals, State Administrative Courts
 - c. U.S. Southern District Court, U.S. District Court, U.S. Circuit Court of Appeals
 - d. U.S. District Court, U.S. Circuit Court of Appeals, U.S. Supreme Court
 - e. State Jurisdictional Courts, State Probate Courts, State Supreme Court
4. What is a federal statute?
 - a. A unanimous decision passed by the U.S. Supreme Court.
 - b. A law passed by the U.S. Congress.
 - c. A state court's final decision.
 - d. A Department of Education regulation.
 - e. None of the above.
5. A regulation is
 - a. Created by an administrative agency and gives further clarity to a law.
 - b. A rule of law created by a state supreme court.
 - c. A rule of law created by the U.S. Supreme Court.
 - d. An amendment to federal legislation.
 - e. Both c and d are correct.
6. How many U.S. circuit courts of appeal are there in the U.S.?
 - a. 5
 - b. 13
 - c. 50
 - d. 1
 - e. 100
7. How many justices currently sit on the U.S. Supreme Court?
 - a. 5
 - b. 9
 - c. 13
 - d. 1
 - e. 100
8. The principal suspended Liz's son for praying in school and Liz is ready to sue. What court(s) could Liz file her suit in?
 - a. Liz's case must file her case in an administrative court because she must exhaust her administrative remedies first.
 - b. Liz could file her case in a state trial court because state courts accept any type of case.
 - c. Liz could file her case in the U.S. Seventh Circuit Court of Appeals Court because the case is about a constitutional issue.
 - d. Liz could file her case in the U.S. District Court because the case is about a constitutional issue.
 - e. Both b and d are correct.
9. Which best describes the state court system?
 - a. Trial courts, Appellate Courts, and State Supreme Court
 - b. Intermediate Court, U.S. District Courts, U.S. Supreme Court

- c. Municipal Court, Federal Court, Superior Court
 - d. Municipal Court/Superior Court, Appellate Court, State Supreme Court
 - e. Superior Court, Municipal Court, District Court
10. What does subject matter jurisdiction do?
- a. Limits the type of cases a court can consider.
 - b. Prohibits judges from being appointed for life.
 - c. Requires all school-related controversies to be settled in an administrative forum.
 - d. Restricts a court from deciding cases outside of the physical boundaries assigned to that court.
 - e. Mandates that only constitutional amendments are reviewed.
11. Which are two main types of federal legislation relating to education?
- a. School board policies and funding laws.
 - b. Civil rights laws and school board policies.
 - c. State regulations and civil rights laws.
 - d. Funding laws and civil rights laws.
 - e. School board policies and state regulations.
12. Which of the following is NOT an example of a U.S. constitutional amendment that has had a significant impact on public schools.
- a. First Amendment
 - b. Fourth Amendment
 - c. Seventh Amendment
 - d. Ninth Amendment
 - e. Fourteenth Amendment
13. Which of the following is NOT a primary source of law.
- a. Statute
 - b. Law review or journal article
 - c. Regulation
 - d. Case law
 - e. Constitution
14. What is legal literacy?
- a. The ability of school leaders and teachers to recite the law.
 - b. The ability of school leaders and teachers to spot legal issues, identify applicable laws or legal standards, and apply the relevant legal rules to solve legal dilemmas.
 - c. The ability of school leaders and teachers to unintentionally violate students' rights.
 - d. The ability of students to file a grievance when their rights are violated.
 - e. A curriculum standard for students that was enacted by Congress.
15. What are Dear Colleague Letters?
- a. Scholarly articles written by legal scholars.
 - b. Collective body of law that is derived from court opinions.
 - c. The actual law enacted by federal and state legislatures.
 - d. Guidance about the implementation of education law into practice which are issued by the U.S. Department of Education.
 - e. All of the above.

Essay Questions

1. Describe three constitutional amendments that are often at issue in litigation involving public schools. What types of protections do these amendments afford public school personnel?
 - First Amendment states that the government should not establish a religion or prohibit one's free exercise of religion; and protects one's rights to free speech, press, assembly, and petition. Some examples of employee protections include: free exercise (religious)—school must provide reasonable accommodations for religious absences; free speech—teachers may speak out on matters of public concern; and assembly—teachers may form unions.
 - Fourth Amendment involves search and seizure, prohibiting against “unreasonable searches and seizures.” Teachers must not be arbitrarily searched.
 - Fourteenth Amendment includes due process and equal protection clauses. Employees must be given due process if they are dismissed during their contract. Teachers cannot be discriminated against based on race. Also, other amendments in the Bill of Rights (e.g., First, Fourth) are applied to public schools through the Fourteenth Amendment.
2. Explain where the legal control of public education resides and discuss what constitutional amendment is at issue within this discussion.
 - Due to the Tenth Amendment, the states and school officials have control of public schools. State and local actions must be consistent with federal safeguards such as freedom of speech and civil rights laws.
 - The word “education” does not appear in the U.S. Constitution. State legislatures have authority to enact education laws and often delegate some decisions to local school boards. Courts will invalidate a local school board action if it is arbitrary, capricious, or outside the board's legal authority.
3. Describe the authority of the courts. For example, would the Eighth Circuit Court of Appeals need to follow a Fifth Circuit opinion? Can any case be heard in federal or state court? Explain.
 - The judicial system is organized into a state and federal court system. Administrative agencies also oversee administrative courts which plaintiffs may have to file a complaint in first (e.g., special education and teacher dismissal cases).
 - The state court hierarchy typically includes trial courts, appellate courts, and a state supreme court/court of last resort. The federal court hierarchy includes district courts, circuit courts of appeal, and the U.S. Supreme Court.
 - Each court has subject matter and geographic jurisdiction. Therefore, the Eighth Circuit Court of Appeals would not need to follow the Fifth Circuit opinion because the Fifth Circuit is not within the Eighth Circuit's jurisdiction. The U.S. Supreme Court is the only court that has jurisdiction across all states.

Chapter 2: Tort Liability

1. Within the context of negligence, what is meant by "reasonable care"?
 - a. This is the degree of care that state officials demand of parents when raising their children.
 - b. This is the standard that principals must meet when deciding cases involving suspension.
 - c. This is the standard that students must exercise on school grounds.
 - d. This is the standard of care that a teacher of ordinary prudence would have used under like circumstances.
 - e. None of the above.
2. Are substitute teachers/student teachers held to the same standard as full-time teachers with regard to the supervision of students?
 - a. Yes. Substitute teachers and student teachers are held to the same standard as full-time teachers.
 - b. No. Although substitute teachers and student teachers must exercise reasonable care when supervising students, the standard of care is much lower than a full-time teacher.
 - c. No. Although substitute teachers are held to the same standard, student teachers may not be sued by students.
 - d. No. Substitute teachers and student teachers have been granted full immunity in negligence cases.
 - e. None of the above.
3. Can teachers be liable for a student's unforeseeable behavior?
 - a. Yes. Teachers can be liable for any injury that occurs on school grounds.

- b. Yes. Teachers can be liable for unforeseeable behavior because teachers should anticipate every type of behavior.
 - c. No. Teachers are generally not liable for student behavior that is unforeseeable.
 - d. No. Teachers can never be held liable because of federal immunity laws.
 - e. None of the above.
4. Which description below is not a defense to negligence?
- a. Teacher Immunity Act of 1984
 - b. Contributory Negligence
 - c. Comparative Negligence
 - d. Assumption of Risk
 - e. Governmental Immunity
5. What is meant by contributory negligence?
- a. When the teacher does not anticipate a negligent act.
 - b. When a parent injures a student on school grounds.
 - c. When a student's negligence contributed to his/her own injury.
 - d. When a teacher injures a student off school grounds.
 - e. None of the above.
6. What is meant by comparative negligence?
- a. When the teacher does not anticipate a negligent act.
 - b. When a parent injures a student on school grounds.
 - c. When a judge or jury compares the negligence of the plaintiff and defendant.
 - d. When a teacher injures a student off school grounds.
 - e. None of the above.
7. What is the Paul D. Coverdell Teacher Protection Act?
- a. This is a state law designed to prevent student injury in school.
 - b. This is a state law designed to protect teachers from being injured by students.
 - c. This federal provision immunizes from liability any teacher who is trying to maintain order in the school.
 - d. This is a provision in the Individuals with Disabilities in Education Act that immunizes from liability any teacher who is trying to maintain order in the school.
 - e. This is a state regulation that prevents any teacher from being sued during field trips.
8. Do waivers prevent students from suing?
- a. Yes. If a student signs a waiver s/he may not sue the school district.
 - b. Yes and No. The waivers only prevent teacher liability on student field trips.
 - c. Yes. If the waiver is approved by the school district's legal counsel, parents may not sue the school district.
 - d. Generally no. Most courts have found waivers that do not permit students to sue in violation of public policy.
 - e. None of the above.
9. What damages might be awarded by courts in negligence cases?
- a. Compensatory damages
 - b. Punitive damages
 - c. Nominal damages
 - d. All of the above.

- e. None of the above.
10. Which best describes defamation law?
- a. Statements made to a newspaper about a teacher by the principal without a teacher's permission.
 - b. Malicious statements made to a teacher from a principal.
 - c. False statements made to third parties that harmed the (individual's) teacher's reputation.
 - d. Language that causes teachers severe emotional distress.
 - e. None of the above.
11. Can students be sued for defamation for posting derogatory statements about a teacher on the web?
- a. Generally derogatory statements have not created a right to sue for defamation. If, however, the information is false and injures the reputation of the teacher, it is possible.
 - b. Any speech posted on the internet is protected from defamation lawsuits under federal law.
 - c. Most states have passed laws protecting all internet speech from defamation lawsuits.
 - d. Any speech posted on a public website about a teacher must create a disruption at the school before being actionable for defamation.
 - e. None of the above.
12. Is there a higher standard for public officials to prove when alleging slander?
- a. Yes. Public officials must prove any statements made about them were made with actual malice.
 - b. Yes. Public officials must simply prove that the statement made about them was false.
 - c. No. Public officials are subject to the same standard as teachers.
 - d. No. Public officials generally are not allowed to bring defamation suits.
 - e. None of the above.
13. Can a personal opinion be subject to a defamation claim in the same way as a fact?
- a. Yes. Statements of fact or opinion are equally open to defamation lawsuits.
 - b. Yes. Federal law specifies that there is no difference between statement of fact and an opinion in a defamation lawsuit.
 - c. No. Opinions are generally not subject to defamation claims.
 - d. No. Unlike a statement of fact, it must be demonstrated that the opinion was based on actual malice.
 - e. None of the above.
14. In a negligence case against a school district, what elements of negligence must generally be proven?
- a. That the student did not breach his duty.
 - b. That the student's actions were contributory.
 - c. Duty, Breach of Duty, Causation, Injury
 - d. Choices a and b are correct.
 - e. Choices a, b, and c are correct.
15. Where are school tort cases usually heard?
- a. In federal court.
 - b. In an administrative court.
 - c. In a state court.

- d. In a circuit court of appeals court.
- e. None of the above

Essay Questions

1. Identify the elements of negligence and apply them to a scenario that you create involving an injured student on the playground.
 - Students should discuss whether there was a duty, whether this duty was breached, whether causation was present, and whether there is injury.
2. Identify at least two defenses to negligence and explain how they would be applied in a given situation.
 - Students should discuss two of the following: contributory negligence, comparative negligence, assumption of risk and/or immunity. Please see Chapter 2 for a discussion of each.
3. Individuals can receive damages for written or spoken injury to their reputations. How do defamation cases differ between public and private figures?
 - It should be noted that public individuals must demonstrate that, in addition to a statement being false, it must also generally demonstrate malice and disrespect for the truth (the standard will vary by state law).