

Fourteenth Edition

Those Who Can, Teach



Chapter Eight

What Are the Ethical and Legal Issues Facing Teachers?

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What Are the Ethical and Legal Issues Facing Teachers?

InTASC Standards 9 and 10



LEARNING OBJECTIVES

- LO 1** Distinguish between law and ethics, and state why these terms are important to teachers.
- LO 2** Elaborate on how ethics is involved in the professional activities of the teacher.
- LO 3** Report on the nature of the law and how it bears on the work of teachers.
- LO 4** Explain how a teacher's lifestyle is circumscribed by the law.
- LO 5** State the various legal issues surrounding religion and public education.
- LO 6** Describe how the law governs and protects the behavior of students.

Truth or Fiction?

- T F** Unlike medical doctors who have the Hippocratic oath, there is no single, universally accepted code of ethics for teachers.
- T F** It is legal in American public school classrooms to study religious books, such as the Bible, the Talmud, and the Koran.
- T F** After many years of delay, recently the Supreme Court has made corporal punishment in our schools unconstitutional and therefore illegal.

Ethics and Laws

Ethics

- a system or a code of morality embraced by a particular person or group
- may be invisible obligations that we perceive
- ideas that are less tangible and observable

Laws

- written rules that members of a given community must follow
- statements that have been hammered out by the legitimate authority of a particular community, state, or nation and are used in court as standards by which to judge, and often penalize, the actual behavior of individuals
- concrete, made by people, and usually written down for the public to see

Ethical Teaching

- Being an ethical teacher means having a special relationship with your students and the other people with whom you work.
- Six Characteristics of Ethical Teaching
 - Appreciation for moral deliberation
 - Empathy
 - the ability to mentally “get inside the skin” of another person
 - Knowledge
 - Reasoning
 - Reflect systematically on an issue
 - Courage
 - We must act... and that takes courage
 - Interpersonal skills
 - Dealing with sensitive issues

Sources for a Guiding Code of Ethics

- Our personal code serves a out sal gide in moral matters large and small
- Draw on a variety of sources:
 - Human example
 - Spiritual and religious codes
 - Secular guides
 - attitudes, activities, or other things that have no religious or spiritual basis.
 - Reason
 - Moral compass
 - All these factors contribute to our moral compass

Three Ways Teachers Ethically Influence Students

- Personal example
 - the way you do your work and treat your students demonstrates your ethical values.
 - who you are speaks louder than what you say
- Classroom climate
 - an environment of safety and trust lets students cooperate and learn.
- Ethical dialogue
 - discussing core ethical values helps students clarify their own ethics.
- The everyday ethics of teaching means doing the job as it ought to be done.

The Teacher and the Law

- “In loco parentis” in the past
 - Teachers were seen as parental figures while students were in their care
 - Teachers decisions were rarely questioned
- Attitude toward schooling changed in the past few decades
 - many students are often more fixated on their rights than on their responsibilities
 - litigious society
 - teachers must be more deliberate and cautious in their dealing with students to not infringe on their rights

Substantive and Procedural Due Process

- Due Process
 - Fairness should be rendered and teaches rights as individuals should not be violated
- Two types
 - Substantive due process
 - Has to do with the issue itself
 - Is the issue of sufficient importance to deny a teacher employment?
 - EX: fired because teacher wears a nose ring
 - Procedural due process
 - Is the process used in handling the case fair?
 - EX: After hearing rumors that the superintendent does not like the nose ring, gets a letter saying his “services are no longer needed”

Procedural Due Process Rights

- The opportunity to be heard at a reasonable time and place
- Timely and adequate notice giving details of the reasons for the proposed suspension or dismissal
- An effective opportunity to defend oneself
- An opportunity to confront and cross-examine witnesses
- The right to retain an attorney; an impartial decision maker
- A decision resting solely on legal rules and evidence
- A statement of the reasons and evidence for a decision

Contract Terminology

Contract	Legally binding agreement
Grievance	Formal expression of complaint about unsatisfactory working condition that does against the teaching contract
Continuing Contract	Terms remain in force indefinitely, until notice of change
Breach of Contract	Violation of conditions of contract

Legal Requirements for Contracts

Contracts must:

- Have a lawful subject matter.
- Represent a meeting of the minds of both parties.
- Include an exchange of something of value.
- Be entered into by parties who are competent to do so.
- Be written in proper form.
- Be ratified by the school board.

Tenure

- Latin - “to hold” or “hold that job”
- You are entitled to contract renewal every year
- Usually after a probationary period of three years
 - Varies from state to state
- Supreme Court:
 - Helps maintain a adequate and competent teaching staff, free from political or arbitrary interference
 - Does NOT mean a job for life
 - Does not guarantee teaching assignment
- Poorly performing tenured teachers can and are fired

Methods of Teacher Dismissal

- Nonrenewal of contract - probationary (non-tenured) teachers
 - In most cases a reason does not have to be given
- “For cause” - tenured teachers
 - Remediable
 - Ex: Poor classroom management, teacher is given PD, mentor and works on issue
 - Irremediable
 - Ex: Commits a crime: assaults a student, etc...
- Reduction in force
 - School’s enrollment drops, and does not need all teachers or a budgetary shortfall
 - Usually “riffed” based on seniority

Liability

- Liability = blame
- Have reasonable precautions be taken to prevent student injury?
 - If no, liable
 - If yes, not liable
- Liability Precautions:
 - Try to anticipate dangerous situations.
 - Take precautions to reduce danger, if possible.
 - Establish rules designed to avoid dangerous situations.
 - Warn students about possible dangers.
 - Supervise students carefully.

Reporting Child Abuse

- Teachers have a legal responsibility to safeguard students from abuse and neglect at the hands of their parents and other adults.
- If teachers suspect that a student has experienced any of those injuries, they must report their suspicions of child abuse and neglect to the appropriate authorities.
- A teacher does not have to be certain that a child is being abused before he or she makes a report to the principal.
- Reporting is kept confidential.

Self-defense

- When a student is in danger of injury in a fight or case of bullying, the law requires a teacher to act.
- Teacher expected to intercede in the interest of safety.
- Operating principle is “reasonable force.”
- A teacher’s recourse against an abusive student is governed by assault and battery laws.

Freedom of Expression

- Free speech
 - Cannot interfere with operation of schools
 - Students' rights can be limited
- Symbolic expression
 - Can be limited if disruptive to school
- Cyberspace expression
- Academic freedom
 - Not absolute

Fair Use of Copyrighted Material

- Teachers may:
- Make a single copy for class use of a:
 - Chapter from a book
 - Newspaper or magazine article
 - Diagram, chart, picture, or cartoon from a book or magazine
- Make a copy for each student of:
 - Articles and short stories - fewer than 2500 words
 - Poems - fewer than 250 words & printed on two pages or less

Lifestyle and the Teacher

- Personal Appearance
 - Hair, Clothes, and Weight
- Private Sexual Behavior
- Conduct with Students
- In general, the courts are allowing teachers a good degree of freedom in their private and personal lifestyles as long as their choices and their behavior do not adversely affect their performance as teachers.

Religious Neutrality Guidelines

Flag	<ul style="list-style-type: none">• Cannot require students to salute or stand for flag salute
Bible	<ul style="list-style-type: none">• Can study without promoting worship• If intended to promote worship, may not be read in a public school, even without comment
Prayer	<ul style="list-style-type: none">• Cannot be a regular part of the school day or events• Individuals may pray outside school hours
Worship services	<ul style="list-style-type: none">• School sponsored unconstitutional, even if voluntary• Prayer groups can meet outside school hours

Students and the Law

- Suspension and expulsion
- Teacher: Pregnancy, parenthood, and marriage
- Corporal punishment
- Search and seizure
- Freedom of speech
- Sexual harassment
- Records and students' right to privacy

Student Suspension and Expulsion

- **In-school suspension** - brief duration, usually for minor violations of rules
- **Out-of-school suspension** - longer duration, for more serious violations
- **Expulsion** - permanent separation from school, for major offenses

Requirements for Suspending or Expelling Students

- **Documentation** - students must be notified, orally or in writing, of the nature of their offense and the intended punishment
- **Explanation** - the school must give a clear explanation of the evidence
- **Opportunity to defend oneself** - students must have the chance to refute charges before a fair and impartial decision maker

Reasonable Suspicion v. Probable Cause for Search

Reasonable Suspicion

- Scope and conduct of search are logically related to circumstances that led to the search
- Sufficient cause for some in-school searches, such as locker searches

Probable Cause

- Based on a substantial reason for believing the person possess something illegal
- Required outside of school
- Needed for invasive searches in school