

Spring 2005

**Department of Teaching, Learning, and Leadership
Western Michigan University
Kalamazoo, Michigan 49008-5276**

Course Number and Title:

EDLD 661: School Law

Credit Hours: 3

Instructor:

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Required Text:

Alexander, K. and Alexander, M.D. (2001). American Public School Law (6th ed.). St. Paul: West Publishing.

E-Source:

<<http://www.legislature.mi.gov>> To get to the required site, scroll down to “Laws”, click on “Frequent Requests (by topic)”, scroll down to “Education”, click on “Revised School Code, P.A. 451 of 1976.”

<http://www.michbar.org> - This site will have Michigan cases and links to other legal sources.

<http://www.findlaw.com> –

<http://www.law.cornell.edu>

Course Pack:

Readings from selected Michigan statutes.

Aforementioned documents may be purchased from:

Legislative Service Bureau
Business Office/School Code
P.O. Box 30026
Lansing, MI 48909-7536

Course Prerequisites:

EDLD 602

Course Description:

Study of federal and state constitutions, legislation, regulatory guidelines, and court decisions as related to operation of educational institutions and organizations. The course will focus on development of awareness and knowledge of legal parameters related to education.

Emphasis of study will be on the impact of legal decisions on teachers, administrators, and the school community. Policy considerations driven by statutory requirements will be examined.

Program Goals:

- To utilize academic knowledge.
- To encourage the practical application of law with field experiences.
- To develop analytical skills.
- To develop leadership skills to prevent law suits.

Course Goals:

- To provide students with an understanding of litigation that affects program development, policy development, and the overall operation of schools.
- To develop a mindset of the importance of policies in the governance of public schools.
- To provide an overview of the Revised Michigan Revised School Code.
- To provide an overview of district responsibilities to students, staff, and the community based on Michigan and other court decisions affecting school governance.
- To promote an awareness of an increasingly litigious society and challenges facing teachers and administrators in the everyday operation of schools.

Course Objectives:

- To understand legal concepts driving the formation and execution of educational policy.
- To review laws and legislation influencing school governance.
- To analyze constitutional provisions that define church state relationships.
- To identify legal provisions affecting student attendance.

- To evaluate legal constraints on instructional programs and to develop strategies to operate within sanctioned guidelines.
- To examine the area of student rights and to identify school policies and procedures required to protect the rights of students.
- To analyze litigation influencing special education with exploration of educational practices required to comply with statutory provisions.
- To review desegregation forces influencing the operation of public schools.
- To provide an overview of torts and to identify practices that reduce negligence, educational malpractice, and liability.
- To define district responsibilities in maintaining student records.
- To synthesize legal mandates and district responsibilities affecting teacher employment (certification, tenure, freedoms, rights, and due process).
- To define district responsibilities and policies countering employment discrimination.
- To identify the parameters of teacher rights and freedoms including tenure, procedural and substantive due process.

COE Diversity Statement:

The College of Education maintains a strong and sustained commitment to the diverse and unique nature of all learners and high expectations for their ability to learn and apply their learning in meaningful ways.

Expectations:

The methods of instructions used in this class are based firmly on the assumption that learning depends on the activity of the student rather than on the instructor; that learning the process is as important as the content, that the overall aim is to develop understandings that will be used in performing the various sections that comprise the leadership process, rather than to provide mere knowledge.

Students are expected to complete mini-briefs (see format listed below) on assigned cases and to actively participate in class discussions. The case study method requires discussion, debate, reflection, and application of cases to the educational environment. The content of class discussion is considered to be important as well as the student's own use of resources, his/her interaction with the instructor and with other students, and his/her preparation of individual assignments which force him/her to react thoughtfully to what he/she hears, observes or reads.

Preparation for class discussion, participation and the doing of individual assignments are most important. Effective learning depends on extensive use of resources, which must be started early and pursued vigorously.

Attendance in class is considered important, and aside from unusual circumstances, the student is expected to be both present and punctual for each session.

You are responsible for making yourself aware and understanding of the policies and procedures in the Undergraduate (pp.268-271) or Graduate (pp. 26-28) Catalogue that pertains to Student Academic Conduct. These policies include cheating, fabrication, falsification and forgery, multiple submission, plagiarism, complicity, and computer misuse. If there is reason to believe you have been involved in academic dishonesty, you will be referred to the Office of Judicial Affairs . You will be given the opportunity to review the charges(s). If you believe you are not responsible, you will have the opportunity for a hearing. You should consult with me if you are uncertain about an issue of academic honesty prior to the submission of an assignment or test.

As stated in the Student Code: “Behavior by any student, in class or out of class, which for any reason materially disrupts the class work of others involved substantial disorder, invades the rights of others, or otherwise disrupts the regular and essential operation of the University is prohibited.”. (Some examples of disruptive behavior may include, but not necessarily limited to, the following: repeated and unauthorized use of electronic devices, cell phones and pagers, disputing authority and arguing with faculty and other students, harassment, physical disruption or physical altercations, etc.)

Any student with a documented disability (e.g., physical learning, psychiatric, vision, hearing, etc.) who needs to arrange reasonable accommodations must contact Ms. Beth Denhartigh at telephone number 269.387.2116 or email beth.denhartigh@wmich.edu at the beginning of the semester. A disability determination must be made by that office before any accommodations are provided by the instructor.

Activity Descriptions:

Midterm: A mid-term examination will be scheduled.

Paper: Each student will select a topic of interest and write a term paper focusing on the implications of the area of law on school policies, practices, and the operation of schools. Students are expected to address the topic and to identify methodologies and practices to effectively operate schools within acceptable legal guidelines. Each student will present his or her topic beginning with week 11. A one page summary addressing major concepts, findings, and recommendations shall be prepared and distributed to students at the time of the presentation. Please use the *Publication Manual of the American Psychological Association*, 5th edition, as the reference for style and documentation.

Performance Driven Leadership Handbook: Each student must complete a 3-5 hour internship within his or her district. This might mean examining policy or discussing school operational procedures with teachers or administrators. Four (4) assignments are listed on the TLL (Educational Leadership under EDLD 661) website. Other information that must be included in the notebook includes assignments that are included in page 9 of

this syllabus. Merging theory into practice is an integral part of the course. Briefs and notes should be included in the notebook. Students may introduce each section with a paragraph or an overview of the section followed by the major points. Points may be bulleted. Emphasis should be placed on what teachers and administrators need to know in reference to school law. The goal is for each student to leave the class with a useful reference guide. Organization is left to the discretion of the student. Once the (law) notebook is assessed and given back to the student, this should be placed in the *Performance Driven Leadership Handbook*.

Modes of Instruction:

1. Cooperative learning
2. Case studies
3. Audio/visual presentations
4. Simulations
5. Lecture/discussion

Record of Student Performance:

In accordance with adopted policy statements (see p.13, The graduate bulletin, “Student Academic Rights”), students have the right to all of their examinations and other written, graded materials made available to them with an explanation of the grading criteria. Students can expect to have all such materials retained for at least one full semester after course was given.

Assessment Procedures: Student assessment encompasses several methodologies including class preparation and participation, writing of a term paper in an approved area, and presentation of the paper to the class. Students should also successfully complete midterm and final examinations. The final examination is cumulative. Assessment percentage breakdowns for activities are as follows:

Midterm	15%
Paper	20%
Final Examination	20%
Student Notebook	20%
Class participation	25%

Grading Scale:

95-100%	A	4.0
90-94%	BA	3.5
85-89%	B	3.0
80-84%	CB	2.5
75-79%	C	2.0

70-74%	DC	1.5
65-69%	D	1.0
0-64%	E	0.0

In the issuance of course grades, students should be aware that the course grade is a measure of the student's performance for required performance appraisal activities. Regular attendance and participation in class is expected. If a student is absent, s/he is responsible for making up missed work. Students are encouraged to talk to other students about class assignment when absent.

Final Examination: The cumulative final examination consists of short answer, essay and other types of questions.

Mini-Brief Example

Citation:	Name of plaintiffs and defendants and where the case can be found. <u>Simms v. Sch Dist. No 1. Multnomah Co.</u> , 508 P.2d 236 (Ore 1973)
Topic:	Assault and Battery
Relief Sought:	What action(s) did the plaintiff seek? Students brought action to recover damages against school district and one of its teachers for assault and battery.
Issues:	(1) Did the teacher wantonly shove the student into door? (2) May teacher use reasonable force to remove a disruptive child from the classroom? (3) Did the trial judge err in instructing to the jury?
Facts:	Background information that summarizes legal violation. Plaintiff, Richard Simms, 14, brought action for assault and battery against the district and a teacher, Martin Weitz, alleging that he was wantonly shoved into a door and glass window, breaking the window and injuring his arm. Defendant denied the allegations and said that while plaintiff was being removed from the classroom by reasonable force, that the incident occurred, but that it was within the teacher's rights to do so. Plaintiff objected to teacher's defense; court overruled the plaintiff. Case went to jury who returned a verdict in favor of both defendants.

Finding of the court:	The legal effect of the facts disclosed. What was the decision of the court(s)? For defendant school district and teacher.
Finding of the Appellate Court	Court of appeals affirmed the court below.
Reasoning:	<p>On what legal principles did the court rely in reaching its decision? Teachers may use reasonable force to remove a child from the classroom if he is a disruptive element therein. The district's regulation on corporal punishment read in part: "Except in the event of forcible and physical resistance to the teacher's authority. Corporal punishment shall be administered only after the teacher has procured in advance the approval of the principal." The issue of whether the student offered "forcible and physical resistance to the teacher's authority" was for the jury to decide. The judge told the jury that it was for it to decide whether the teacher used <u>reasonable</u> force within the meaning of the regulation. A teacher stands in <i>loco parentis</i> to the child and shares the parents' right to obtain obedience to reasonable demands by force. In <u>Ware v. Estes</u>, the federal courts held that corporal punishment is not "cruel and inhumane treatment" under the Eighth Amendment. The courts hold that the child has no constitutional grounds to object to corporal punishment so long as it is reasonable, properly administered and so as not to cause harm, and is legally authorized. Nor do we consider as inadmissible the teacher's written report prepared on the day of the act for his principal on the grounds because it is self-serving. The teacher was subject to cross-examination regarding all aspects of the report, including its authenticity and reliability and accuracy. The court did not abuse its discretion in this case.</p>

Class Schedule:

Date	Topic	Textbook Assignment
Jan 4	Introductions Review course requirements Organize groups	
Jan 11	Michigan law (Introduction) Legal system Legal Resources Historical perspectives Research paper	Ch. 1 Ch. 2
Jan 18	Role of the federal government Governance of public schools	Ch. 3 Ch. 4
Jan 25	Church and state	Ch. 5
Feb 1	School attendance	Ch. 6
Feb 8	Instructional program	Ch. 7
Feb 15	Student rights	Chs.8,9
Feb 22	MID-TERM EXAMINATION	
Mar 1	SPRING RECESS	
Mar 8	Rights of disabled students	Ch. 10
Mar 15	Rights of Disabled Students (Cont)	Ch. 10
Mar 22	Torts	Ch. 11
Mar 29	Torts Students submit research papers.	Ch. 11
Apr 5	Teacher Rights and Freedoms <u>Papers are due</u>	Ch. 15

Apr 12

Collective Bargaining
Notebooks are submitted for appraisal.

Ch 18

Apr 19

FINAL EXAMINATION

The Revised School Code (Act 451 of 1976)

Listed below are citations that relate to Michigan school law. Each area should be reviewed with a short synopsis placed in the *Law Handbook* unless otherwise noted.

380.10	Rights of parents/guardians
380.11a	General powers school districts
380.415	Removal of board member
380.416	Board members and quorum
380.417	Board member reimbursement
380.418a	Board member proceedings
380.471a	Appointment term and qualifications; supt. and others
380.503-380.517a (read only)	Public school academy
380.1137	Powers of parents and legal guardians; Policies and guidelines
380.1152	Bilingual instruction
380.1169	Dangerous communicable diseases
380.1175	Public holidays
380.1230a	Offer of employment (teachers, administrators, substitute teachers)
380.1230	Criminal records check
380.1278	Core academic curriculum
380.1279b	Credit awarded to pupils not enrolled in a course
380.1289	Participation of females (athletics)
380.1291	Local school security task force
380.1301	Pregnant persons
380.1303	Pocket pagers and electronic devises
380.1311	Suspension and expulsion of students
380.1312	Corporal punishment
380.1313	Dangerous weapons
380.1316	Public school fraternities
380.1321-380.1324 (read only)	Transportation
380.1422	Textbooks
380.1507	Sex education instruction
380.1525-380.1527	Professional development

380.1535a	Conviction of teachers for certain crimes
380.1539a	Conviction of administrators for certain crimes
380-1539b	Conviction of board appointed personnel for certain crimes
380.1561	Compulsory attendance
380.1565	Student meditation
380.1587-387.1588	Failure to send students to school
380.1751 – 380.1776 (read only)	Special education

Course Pack

Nonpublic schools (home school)
Disclosure of unprofessional conduct
Freedom of Information Act
Open Meetings Act
Immunization
Public employment
Teacher tenure
Child protection
Student instructional days
Special education
Bullard-Plawecki Employee Right to Know Act
Michigan Juvenile Law

Bibliography For School Law

Church & State

Johansen, I. (1993). Prayer at school events. School Law Bulletin, 24(1), 1-10.

Morris, A. A. (1996). Separation of church and states? Remarks on “Rosenberger v. University of Virginia”. West’s Education Law Quarterly, 5(1), 100-118.

Underwood, J. K. , & Mead, J. F. (1996). Establishment of religion analysis: The “Lemon” test or just lemonade. Journal of Law and Education, 25 (1), 55-82.

Vacca, R. S., & Hudgins, H. C. (1994). Pomp and controversy. American School Board Journal, 181(5), 29-32.

Student Attendance

LoVette, O. K., & Jacob, S. (1995). Why do so many high achieving high school students dislike school. NASSP Bulletin, 79(575), 70-75.

Mentall, E. J. (1993). Implementing site-based management: Overcoming the obstacles. NASSP Bulletin, 77(555), 97-102.

Quinn, L. (1995). Using threats of poverty to promote school attendance: Implications of Wisconsin’s learnfare experiment for families. Journal of Children and Poverty, 1(2), 5-16.

Stenerson, R. W., & Stouffer, J. E. (1994). Saturday school: Keeping students in class and improving the discipline climate. Schools in the Middle, 3(3), 36-37.

Teacher Rights

Curry, M. J. (1981). A summary of three areas of school law: Students’ rights, torts, and teachers’ rights. Capstons Journal of Education, 2(10), 73-81.

Hassenpflug, A., & Riggs, R. O. (1996). Guilty until proven innocent? Protecting the rights of school district employees. West’s Education Law Quarterly, 5(2), 225-232.

Manacker, J. (1994). Civil rights in the school setting. Update on Law-Related Education, 18(2), 4-8.

Tucker, B., Smith, J. F. Jr. (1996). Accommodating Law Faculty with Disabilities. Journal of Legal Education, 46(2), 157-188.

Search and Seizure

Franco, S. L. (1994). Adopting a policy to protect students and the school: Searches and seizures. Quill and Scroll, 68(2), 21.

Foldesy, G., & King, D. (1995). Strip search in schools: Beyond the boundaries of the law. Clearing House, 68(5), 275-277.

Rossow, L. F., & Stefkovich, J. (1996). "Vernonia School District v. action": Suspicionless drug testing. West's Education Law Quarterly, 5(1), 39-51.

Zirkel, P. A. (1995). Searching for a proper balance. Counterpoint. Journal of Law and Education, 24(1), 81-83.

Collective Bargaining

Bane, V., & Pride, K. (1993). The \$325 million bargain. American School Board Journal, 180(10), 24-28.

Horton, W. (1995). A multimedia bargain? Technical Communication: Journal of the Society for Technical Communication, 42(1), 194-197.

Tilly, S. (1995). Finally, colleges start to cut their crazy costs. Fortune, 131(8), 110-112, 114.

Student Rights

Burke, N. D. (1993). Restricting gang clothing in the public schools. West's Education Law Quarterly, 2(3), 391-404.

Kohrman, D. B., & Woodruff, K. M. (1996). The 1994-95 term of the United States Supreme Court and its impact of public schools. West's Education Law Quarterly, 5(1), 12-38.

Splitt, D. A. (1996). "That they might serve". School law. Executive Educator, 18(5), 13, 39.

Venum, M. K. (1995). Students with diabetes: Is there legal protection. Journal of Law and Education, 24(1), 33-69.

Instruction Programs

Lundeberg, M. A., & Moch, S. D. (1995). Influence of social interaction on cognition: Connected learning in science. Journal of Higher Education, 66(3), 312-335.

Martin, D. C., & Blanc, R. A. (1994). VSI: A pathway to mastery and persistence. New Directions for Teaching and Learning, 60, 83-91.

Metteer, C. (1993). Accommodating the needs of a changing society: Part-time legal education for parents. Journal of Legal Education, 43(4), 590-593.

Special Education & Handicapped Children

Eads, P. F. (1995). Special education legislation affecting classroom teachers and administrators. Reading Improvement, 32(1), 9-12.

Gerrard, L. C. (1994). Inclusive education: An issue of social justice. Equity and Excellence in Education, 27(1), 58-67.

Goedert, J. G. (1995). Schools, sports and students with disabilities: The impact of Federal Laws protecting the rights of students with disabilities on interscholastic sports. Journal of Law and Education, 24(3), 403-421.

Linda, M. A. (1995). Special educational service and parochial schools: Constitutional constraints and other policy considerations. Journal of Law and Education, 24(3), 345-375.

Masibov, L. L. (1994). What's so special about special education. School Law Bulletin, 25(3), 1-14.

McGovern, J. E. (1994). IDEA: Concept or reality for the disabled child. Momentum, 25(2), 44-47.

McCarthy, M. M. (1993). Can costs be considered in special education placements. Journal of Law and Education, 22(3), 265-282.

Mead, J. F. (1995). Including students with disabilities in parental choice programs: The challenge of meaningful choice. West's Education Law Quarterly, 4(4), 570-603.

Meredith, B., & Underwood, J. (1995). Irreconcilable differences? Defining the rising conflict between regular and special education. Journal of Law and Education, 24(2), 195-226.

Osborne, A. G. Jr. (1993). Parental rights under the IDEA. West's Education Law Quarterly, 2(3), 414-420.

Thompson, A. H., & Newman, S. C. (1995). Mortality in a child welfare population: Implications for policy. Child Welfare, 74(4), 843-857.

Zirkel, P. A. (1995). Special education law update IV. West's Education Law Quarterly, 4(3), 455-463.

Torts

Lane, F. Jr. (1995). Sexual misconduct of school employees: Supervisory school officials' liability under section 1983. School Law Bulletin, 26(2), 9-16.

Mawdsley, R. D. (1993). Supervisory standard of care for students with disabilities. West's Education Law Quarterly, 2(3), 421-433.

Sorenson, G. P. (1993). School district liability for Federal civil rights violations under section 1983. West's Education Law Quarterly, 2(1), 15-32.

Defamation and Student Records

Block, B. (1993). Ask or don't ask? Negligent hiring and defamation. School Business Affairs, 59(12), 23-26.

Bjorklun, E. C. (1993). Are teachers public officials for defamation purposes. West's Education Law Quarterly, 2(3), 405-413.

Dagley, D. L. (1994). The relationship test in the discipline of disabled students. West's Education Law Quarterly, 3(2), 319-337.

Johnson, T. P. (1993). Managing student records: The courts and the family educational rights and privacy act of 1974. West's education Law Quarterly, 2(2), 260-276.

