**Foundations of Education Chapter 7**

**I.Why do you need to know about education and the law?**

**-federal and state legislation and court decisions will affect your life as a teacher**

**-without knowledge of the legal dimensions of such issues, you will be ill-equipped to protect your rights and the rights of your students**

***II.Why do you need a professional code of ethics***

**-we do not have a uniform code of ethics**

**-NEA(National Education Association) has a code of ethics for members that includes the following statement: “The educator accepts the responsibility to adhere to the highest ethical standards”**

**A.ethical teaching attitudes and practices**

**-teachers have an obligation to act ethical and to follow what he or she knows to be the most appropriate professional action to take**

**-teachers must act in a way that promotes the learning and growth of students and helps them realize their potential**

**B.ethical dilemmas in the classroom and school**

**-you will have to take action in situations in which all the facts are not know or for which no single course of action can be called right or wrong**

**-Good ethical decisions**

**1.The decision is supported by evidence**

**2.The ends aimed at by the decision are the ends that ought to be aimed at.**

**3.The decision can be implemented morally.**

**4.The decision has been legitimately achieved.**

**III.What are the rights of teachers?**

**Due process-teachers are protected from being treated arbitrarily by those in authority and simply means that a teacher cannot be dismissed for poor performance without ample documentation that the performance was really poor –remember documentation can always be made and really one can find reasons to get rid of teachers**

**-NEA represented a teacher in SD who got nonrenewed for reasons of immoral conduct by having extramarital affair-did that affect that teacher’s job performance????**

**A.certification**

**-obtaining a certificate does not guarantee the right to retain it**

**-for a certificate to be revoked, the reason must be job-related and demonstrable impair the teacher’s ability to perform satisfactorily**

**B.teachers’ rights to nondiscrimination**

**-states may impose certain limitations on initial certification as long as those limitations are not discriminatory with regard to race, religion, ethnic origin, sex, or age**

**-the right to nondiscrimination in regard to employment is protected by Title VII of the Civil Rights act of 1964**

**C.teaching contracts**

**-agreement between the teacher and a board of education and to be valid it must contain the following five elements:**

**1.offer and acceptance**

**2.competent parties-school board is not exceeding the authority granted to it by the state, and the teacher meets the criteria for employment**

**3.consideration**

**4.legal subject matter-contract must be legal**

**5.proper forms-it must adhere to state contract laws**

**-certain assignments, though not specified in a contract may be required of teachers in addition to their regular teaching load as long as there is a reasonable relationships between the teachers’ classroom duties and additional assignments(assignment can be manipulated!!)**

**D.Due process in tenure and dismissal**

**Tenure or continuing contract is a policy that provides the individual teacher with job security by preventing his or her dismissal on insufficient grounds and by providing him or her with due process in the event of dismissal**

**-some critics point out that tenure policy policies make it too difficult to dismiss incompetent teachers and that performance standards are high in many other fields that do not provide employees with job security**

**Courts have ruled on a variety of reasons for dismissal:**

**1.insubordination**

**2.incompetience or inefficiency**

**3.neglect of duty**

**4.conduct unbecoming of a teacher**

**5.subversive behaviors**

**6.retreachment or decreased need for services**

**7.physical and or mental health**

**8.age**

**9.causing or encouraging disruption**

**10.engaging in illegal activities**

**11.using offensive language**

**12.peronal appearance**

**13.sex-related activities**

**14.political activities**

**15.use of drugs or intoxicants**

**Most states have outlined procedures that adhere to the following steps for due process:**

**1.teacher must be notified of the list of changes**

**2.adequate time must be provided for the teacher to prepare a rebuttal to the charges**

**3.the teacher must be given the names of witnesses and access to evidence**

**4.the hearing must be conducted before an impartial tribunal**

**5.the teacher the right to representation by legal counsel**

**6.the teacher or legal counsel can introduce evidence and cross-examine adverse witnesses**

**7.the school board’s decision must be based on the evidence and findings of the hearing**

**8.a transcript or record must be maintained of the hearing**

**9.the teacher has the right to appeal an adverse**

**Collective bargaining-requires school boards to negotiate contracts with teacher organizations**

**Grievance-formal complaint against his or her employee**

**E.academic freedom**

**-teacher’s rights must yield to compelling public interests of greater constitutional significance**

**-teachers have been dismissed for ignoring directives regarding the teaching of controversial topics related to sex, polygamy, race, and religion**

**F.do student teachers have the same rights as teachers do?**

**-find out if student teachers can act as substitutes for your cooperating teacher or as another teacher in the building**

**-understand the school policies before you student teach**

**-read the teacher’s handbook**

**-ask when in doubt if what you are doing is appropriate or accepted in the school you are student teaching in-it may or may not go against your own beliefs**

**IV-What are your legal responsibilities as a teacher?**

**A.avid tort liability**

**-it is an individual who is negligent and at fault in the exercise of his or her legal duty and may be required to pay monetary damages to an injured party**

**-teachers are held to a higher standard than ordinary citizens and other teachers(ex-shop and chemistry teachers have more risks)**

**B.negligence**

**-accidents that teachers cannot reasonably foresee that do result in student injuries**

**For a school official to be considered liable, the following must be shown to be present:**

**1.legal duty**

**2.breach of duty**

**3.causual connection often referred to as proximate cause between the conduct and the resultant injury**

**4.actual loss or damage**

**-as a teacher you should be alert to conditions that might lead to accidental injury**

**Liabilities of most cases involve many times involves one of the following**

**1.inadequate supervision**

**2.inadequate instruction**

**3.lack of or improper medical treatment of pupils**

**3.improper discloser of defamatory information concerning pupils such as release of school records that contain negative statements about students**

**-many professional organizations offer liability coverage as part of their membership benefits-GREAT INSURANCE**

**B.reporting child abuse**

**-teachers are required by law to report suspected child abuse…period.**

**C.observe copyright laws-look them up!**

**V.What are the legal rights of students and parents**

**A.freedom of expression**

**-since the 1960s, students have confronted teachers and school districts more often with what they perceive to be illegal restrictions on their behavior**

**-*Tinker vs. DesMoines Independent Community School District (1969)* said that neither teachers or students shed their first amendment rights of freedom of expression at the schoolhouse gate**

**-over the years, changes have been made to this to give administrators and schools the right to prevent disruption to regular running of a school and protect students-**

**-courts have had to balance the first amendment rights of students to express themselves against the legitimate right of school authorities to maintains a safe and disruptive free environment**

**B.Due process in suspensions and expulsions**

**-every state must have outlined procedures for school officials to follow in the suspension and expulsion of students**

**-short term expulsions of 10 days or less, the due process steps are more flexible and can be determined by the nature of the infraction and the length of the suspension**

**C.reasonable searches and seizures**

**-according to the fourth amendment, citizens are protected from search and seizure conducted without a search warrant…but school work differently**

**Supreme court reasonable with this two-pronged test:**

**1.school official must have a reasonable suspicion that a student has violated a law or school policy**

**2.the search must be conducted using methods that are reasonable in scope**

**To protect themselves from legal challenges related to searches, educators should follow guidelines that have been suggested by the school law experts:**

**1.inform students and parents at the start of the school year of the procedures for conducting locker and personal searches**

**2.base any search on reasonable suspicion**

**3.conduct any search with another staff member present**

**4.avoid strip searches or mass searches of students**

**5.require that police obtain a search warrant before conducting search in a school**

**D.privacy**

**Buckley amendment requires schools to do the following:**

**1.inform parents and students of their rights**

**2.provide information to parents and students about the type of educational records available and how to obtain and access them**

**3.allow parents or students to review records, request changes, request a hearing if changes are not allowed, and if necessary add their own explanation about the records**

**4.not give a personally identifiable information without prior written informed consent of a parent or student**

**5.allow parents and students to see the school’s record of disclosures**

**-many schools and states go further than these procedures to be protected from litigation**

**-some exceptions to Buckley’s amendment are the teacher’s grade book, psychiatric or treatment records, notes or records written by the teacher for his or her exclusive use to be shared by a substitute teacher or the private notes of school law enforcement units-KEEP A NOTEBOOK YOU HAVE BOUGHT WITH YOUR OWN MONEY THAT YOU CAN KEEP PRIVATE NOTES IN THAT THE SCHOOL CANNOT DEMAND YOU TURN OVER**

**E.students’ rights to nondiscrimination**

**-students who are married, pregnant, or parents are not to be treated different according to the courts…many issues of gay and lesbian students are now being discussed-such as the use of bathrooms and involvement in extracurricular activities**

**VI.What are some issues in the legal rights of school districts?**

**A. corporal punishment**

**-thought he Supreme Court has upheld the constitutionality of corporal punishment, many districts around the country have instituted policies banning its use. There are schools in some state who do still use it, but there are guidelines that are good to follow when implementing corporal punishment procedures:**

**1.specific warning is given about what behavior may result in corporal punishment**

**2.evience exists that other measures attempted failed to bring about the desired change in behavior**

**3.administraion of corporal punishment takes place in the presence of a second school official**

**4.on request, a written statement is provided to parents explaining the reasons for the punishment and the names of all of the witnesses**

**5.the punishment meets the reasonableness standard-and within the bounds of reason and humanity**

**6.The punishment meets the good faith standard-the person administering the punishment is not motivated by malice and does not inflict punishment wantonly or excessively**

**B.sexual harassment**

**-it happens….**

**-increased reports of sexual harassment of students by educators are causing some teachers to be apprehensive about working closely with students and a small number of teachers even report that they fear being falsely accused by angry, disgruntled students…..most of the time the courts favor the story of the student….CAUTION…don’t put ourselves in a situation that can get you into trouble**

**C.Religous expression**

**-the U.S. Supreme Court ruled that recitation of a prayer said in the presence of a teacher at the beginning of each school day was unconstitutional and violated the First Amendment which states Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof…**

**Guidelines for Religion in School**

**1.students may read their Bibles or other scriptures, say grace before meals, and pray or study religious materials during recess, lunch hour, or other non-instructional times**

**2.teachers should not discriminate against students who express their beliefs about religion in homework, artwork, and other written and oral assignments**

**3.in certain circumstances, schools may have to grant parental request to excuse students from class for religious reasons**

**4.teachers and other school employees when acting in their official capacities as representatives of the state, cannot encourage or participate in prayer activities with students-HOWEVER, before school or during lunch school employees are free to meet with other employees for prayer or Bible study**

**D. homeschooling**

**-many homeschoolers are motivated not by religious doctrine but by concern about issues such as school violence poor academic quality and peer pressure**