Teaching School Law: Undergraduate, Graduate, & Online Students

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Indiana University
Agenda (1:00-4:15)

- Introductions
- Guiding Premises*
- Teaching Undergraduate Students*
- Break (2:15-2:25)
- Teaching Graduate Students*
- Teaching Online*
- Closing Thoughts
- Resources

*we will be sharing sample assignments & class activities in these sections
Introductions
Sample Class Activity #1: Speed Bonding
Introduce yourself to one person.

Ask:
- If you could pick one vacation destination where would it be & why?
- Name one goal you would like to accomplish by attending today’s presentation?
- What is one area you find difficult to teach?
Survey Response:

How do I know which topics to cover in more depth?
What Should Guide CONTENT Decisions?

Content should:

- center on legal issues that
  - children in elementary & secondary schools deserve school personnel to understand & demonstrate.
  - educators should know to empower them to be better child advocates.

- provide information educators can use to
  - balance competing interests presented by the school district, students, & students’ parents.
  - to further the development of a democratic classroom.

- empower educators to advocate for themselves as public employees.
What Should Guide DELIVERY Decisions?

- Students are entitled to a course experience that is rigorous & thought-provoking.
- Course delivery should provide multiple methods for understanding & demonstrating understanding.
- Course delivery should provide multiple means for discussing course content.
- Course assignments should be authentic & provide students multiple methods for demonstrating their learning.
Sample Class Activity #2: Objectives
Objectives

You will:

- Increase understanding of what should guide the content & delivery of school law courses
- Be provided examples how you can incorporate interactive activities into teaching undergraduate, graduate & online students
- Learn from one another
- Other ideas?
Sample Assignment #1: From Legal Reasoning to Ethical Decision Making
From Legal Reasoning to Ethical Decision Making

- Component 1: Personal code of ethics (thank you, Patrick Pauken)
- Component 2: Structured discussion(s)
- Component 3: Essay on the relationship between law and ethics
From Legal Reasoning to Ethical Decision-making: A Process


- **Step 2**: State the legal issue and create a visual to represent each argument with respect to the boundaries of discretion.

- **Step 3**: Examine ruling, including what it decided and what it did not decide. Create a visual to represent the court’s ruling with respect to the boundaries of discretion.

- **Step 4**: Consider where legal reasoning ends and ethics takes over. Identify Competing Legitimate Interests in any similar dispute.

- **Step 5**: Map ethical considerations for similar situation, identifying actions a leader might make.
Example – Owasso v. Falvo

The facts:
Parent complains about peer grading because her children find the process embarrassing. She complains to principal. The principal supports teachers and declines her request for change, although the child is permitted to tell the grade privately, rather than announce it. Parent is unsatisfied and complains to superintendent, who affirms principal’s/teacher’s decision. Parent sues.
**Step 1 - Examine Facts & Map leaders’ decisions against ethical paradigms.**

<table>
<thead>
<tr>
<th>Decision</th>
<th>Ethic of Justice</th>
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<td>Provides alternative for child.</td>
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Step 2 - State the legal issue and create a visual to represent each argument with respect to the boundaries of discretion.
The Legal Issue in *Falvo*

Plaintiff Parents: Peer grading is prohibited by FERPA & therefore outside teachers’ discretion.

 Defendant School District: Peer grading is not prohibited by FERPA & therefore is a matter of discretion for teachers/school officials.
Step 3 - Examine ruling, including what it decided and what it did not decide. Create a visual to represent the court’s ruling with respect to the boundaries of discretion.
The Supreme Court Decides *Falvo*

Peer grading is not prohibited by FERPA & therefore is a matter of discretion/policy for teachers/school officials.

Note that in this case, the Court adopted the School District’s depiction of the issue. Remember that it is possible that a court will see the issue in a manner different from either the plaintiff’s or the defendant’s argument on the issue.
Step 4: Consider where legal reasoning ends and ethics takes over. Identify Competing Legitimate Interests in any similar dispute.
The Supreme Court Decides *Falvo*

If a similar complaint happened in your school, what would the *Competing Legitimate Interests* be?
- Teachers
- Students who do well
- Students who struggle
- Parents

Since the Court concluded that school officials have the discretion to use peer grading, you might also think about what non-legal questions might arise that could guide whether or not officials “should”?

- What does research tell us?
- Are there situations where peer grading makes sense?
- Situations where it doesn’t?
Step 5: Map ethical considerations for similar situation, identifying actions a leader might take.
### Mapping decisions you might make in similar circumstances...

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<tr>
<td>Talk with teachers about why they use peer grading.</td>
<td>Attempting to fully understand</td>
<td>Shows care for teachers in trying to understand.</td>
<td>Honoring teachers’ professionalism</td>
<td></td>
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<tr>
<td>Are there pedagogical reasons to support it?</td>
<td>Justice demands justification</td>
<td></td>
<td>Teachers should be able to justify decisions.</td>
<td></td>
</tr>
<tr>
<td>What is the effect on the child/other children?</td>
<td>Is it just to engage in a practice that causes embarrassment for 1 if it does bother others?</td>
<td>Does the practice reinforce existing patterns of power/privilege?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Make a blanket rule to preserve the practice.</td>
<td>Protects child from possible teasing.</td>
<td>Shows care for the child Teachers may feel devalued</td>
<td></td>
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</tr>
<tr>
<td>Make a blanket rule to prohibit the practice.</td>
<td></td>
<td>Shows care for teachers; child is still singled out.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Make an exception for this child.</td>
<td>Is this fair to others who have been silent?</td>
<td>Shows care for teachers; child is still singled out.</td>
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<td></td>
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<td>Respects teacher's judgment.</td>
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Sample Class Activity #3: Legal Literacy Discussion
Discuss with a Neighbor: Should Educators & Administrators be Legally Literate? Explain.
Legal Literacy Literature

- Includes a very limited number of national, empirical studies

- Confirms educators & administrators lack legal knowledge (Schimmel & Militello, 2007; Militello, Schimmel, & Eberwein, 2009).

- Confirms educators & administrators lack legal training (Schimmel & Militello, 2007; Militello, Schimmel, & Eberwein, 2009).
  - Principal & superintendent certification typically require one school law course (Stephens, 1983)
  - Rare for pre-service teachers complete a school law course (Eckes, 2008; Gullatt & Toilet, 1997; Schimmel & Militello, 2007).
Take Militello & Schimmel’s Survey:

1. T or F: It is unconstitutional to study the Bible in a public school.
2. T or F: Law enforcement requesting permission to search a student at school must have probable cause.
3. T or F: Before students are suspended for 5-10 days, they have a right to a hearing where they can bring a lawyer to advise them.
4. T or F: Teachers can be sued for defamation if their report of student abuse is not substantiated.
5. T or F: Teachers are prohibited from viewing their students' records unless they receive permission from the parents or the principal.
6. T or F: Teachers cannot be held liable for student injuries that occur due to the teacher's negligence if it occurs when breaking up a fight.
7. T or F: Schools can be held liable for failing to prevent student sexual harassment.
8. T or F: Students have a constitutional right to participate in extracurricular activities.
9. T or F: Invocations and benedictions at graduation ceremonies are permitted.
10. T or F: Teachers can be held liable for any injury that occurs if they leave their classroom unattended.
TEACHING UNDERGRADUATE STUDENTS
Sample Class Activity #4: T-shirt Sort
T-shirt Sort

- Four chairs have been marked with the 4 primary speech precedents from the U.S. Supreme Court (*Tinker*, *Bethel*, *Hazelwood*, & *Morse*)
- Look at your t-shirt and its message.
- Which precedent would likely be controlling?
- Place your t-shirt into the appropriate pile.
Student Speech Analysis

**Hazelwood**

Is the speech made pursuant to curriculum?

- Yes
- No

Is there a reasonable pedagogical rationale to curtail or prohibit the speech?

- Yes
- No

Was speech made on campus?

- Yes
- No

Is the speech lewd, profane or vulgar?

- Yes
- No

Could the speech be reasonably construed to promote drug use?

- Yes
- No

Does the speech cause a material and substantial disruption of school activities?

- Yes
- No

School wins

Student wins
Student Speech

Analysis

Student Speech

Is the speech made pursuant to curriculum?

Yes

Is there a reasonable pedagogical rationale to curtail or prohibit the speech?

Yes

No

School wins

No

Was speech made on campus?

Yes

Was speech made on campus?

No

No

Morse

Is the speech lewd, profane or vulgar?

Yes

No

Could the speech be reasonably construed to promote drug use?

Yes

No

Does the speech cause a material and substantial disruption of school activities?

Yes

No

No

Student wins

Morse
Student Speech Analysis

Is the speech made pursuant to curriculum?

Yes

Is there a reasonable pedagogical rationale to curtail or prohibit the speech?

Yes

School wins

Tinker

No

Was speech made on campus?

Yes

Is the speech lewd, profane or vulgar?

Yes

Could the speech be reasonably construed to promote drug use?

Yes

Does the speech cause a material and substantial disruption of school activities?

Yes

Student wins

No

No

No

Student wins
Sample Class Activity #5: Legal Framework
The Court System: State Court v. Federal Court

U.S. Supreme Court → U.S. Circuit Court of Appeals → U.S. District Court → Constitutional or Federal Question

U.S. Supreme Court → Indiana Supreme Court → Indiana Court of Appeals → Trial Courts → Any Question
The Court System: Application

How do cases get into state court versus federal court?

1. Tatted teacher
2. Car accident
Sample Class Activity #6: A Framework for Analyzing School Law Scenarios
A Framework for Examining School Legal Scenarios

- **Step One**: State your position.
- **Step Two**: Discuss your constitutional and/or statutory arguments.
- **Step Three**: Discuss which cases or general rules of law support your argument.
- **Step Four**: Discuss what policy arguments (non-legal arguments) support your position. Consider ethical arguments here, too.
Legal Analysis Framework

- has been used for an in-class oral debate, a scenario used in class, a paper assignment, a student-created website/book/play script/video, or an exam question.
Apply Framework to Scenarios:

1. Addison Athlete, a student at your high school, unexpectedly dies over the weekend. On Monday, a teacher leads a moment of silence in remembrance of Addison over the PA system. On Wednesday, the principal approves the Valedictorian’s graduation speech which focuses on Addison, explains that now, she is with “God, Our Savior” and ends with a Christian prayer. On Thursday, a parent-led group, the Child Evangelism Fellowship, meets after school in the school’s cafeteria to hold a Christian-based Memorial Service for Addison.

First, explain the constitutional law that applies. Second, discuss each day in isolation. For each day, a) make a conclusion about whether the school’s actions were legal and b) apply the relevant rule(s) of law from court cases to each day’s facts.

2. On Monday, Ruby wears a t-shirt that says, “Donald Trump for President.” Her teacher tells Ruby, “Wearing a political t-shirt is too controversial! Turn your t-shirt inside-out!” Ruby complains that there is nothing in the school’s dress code that makes it impermissible for her to wear the shirt. The teacher assigns Ruby one day of detention for failing to turn her t-shirt inside-out immediately. On Tuesday, Ruby writes a letter to the editor of the school’s newspaper complaining about the t-shirt incident on Monday. The letter complains that the “the teachers at this school are dictators just like Hitler.” The journalism teacher, Mr. Cautious, refuses to publish Ruby’s letter. On Wednesday, Ruby stands in a school hallway with a sign that reads, “Smoke a Doobie if you think Mr. Cautious is a F!*# ASSHOLE!” The dean gives Ruby a day of in-school suspension.

First, explain the constitutional law that applies. Second, discuss each day in isolation. For each day, a) make a conclusion about whether the school’s actions were legal and b) apply the relevant rule(s) of law from court cases to each day’s facts.

3. Teacher Tammy noticed that her iPhone was missing out of her work bag. To locate the phone, she searched all of her students’ lockers. Then, she told them to empty their pockets before they were allowed to leave the room. When you learned about Tammy’s search, you told Tammy that it may have been unconstitutional. She responded, “Whaaaaateva! My husband is a cop and so I know that I had all the probable cause I needed.”

First, explain the constitutional law that applies to all these situations. Second, discuss each search in isolation. For each search, a) make a conclusion about whether the search was legal and b) apply the relevant rule(s) of law from court cases to each search.
BREAK
TEACHING GRADUATE STUDENTS
Sample Assignment #2: Creating Legal Lessons as Professional Development
Legal Lessons

- Student Expression
- Religion in Schools
- Students with Disabilities
- Out-of-School Conduct
- Teacher Freedom of Expression
- Student Liability
- Student Discipline
- Harassment & Bullying
- Student Records/FERPA
- Abuse & Neglect
- Significance of Spec. Ed. Law
- IDEA, Section 504, ADA
- Eligibility
- IEP
- LRE
- Discipline
- Transitioning
- Family-School Relationships
Legal Lesson Components

- Activator/Motivator
- Rationale/Objectives
- Law
- Application
- Assessment
- FAQs
Assignment: You will collaborate with your team to draft a plan detailing how you will prepare & present your lesson.

Why is this assigned? Effective teaching requires effective planning & ample preparation. By creating a lesson plan, your team will identify what you would like the audience to learn, what curriculum & instructional strategies you are going to use, & how you will assess whether the audience has mastered your lesson’s objectives.
Guidelines

Before your team collaborates to create your lesson plan, you should each read:

1. Legal Lesson from *Principals Teaching the Law* for the topic you signed up for in class.
2. corresponding pages in *Public School Law*:
   - Student Expression Team should read: Ch. 4
   - Religion in Schools Team should read: Ch. 2
   - Students with Disabilities Team should read: Ch. 6
   - Out-of-School Conduct Team should read: pp. 299-307, pp. 368-372 (Immorality)
   - Teacher Freedom of Expression should read: pp. 273-287
Lesson Plan

Activator/Motivator

- Describe who will prepare this?
- When does it need to be in draft form and submitted to the team?
- What curriculum and instructional strategies s/he/they will be using?
- How long this portion of the lesson will last?
- How do you plan to deviate from the *Principals Teaching the Law* legal lesson?
You are encouraged to be CREATIVE and HAVE FUN with this assignment! The ultimate goal is to present an engaging and effective lesson.

Any changes from PtL lesson should be discussed with me first (via Lesson Plan).

However, your group will NOT present the lesson’s “Assessment” as it is written. Instead, you will draft a Group Analysis scenario. It must be written such that you can ascertain whether EVERY student learned your objectives.
I may also present on some of the material found in your lesson.

Include FAQs, however, identify a creative way you can cover this info.

Think outside of the box so the presentations don’t get stale.

Your entire presentation should be 50-60 minutes.

Questions?
Sample class activity – Capture the content in a Nutshell
Compulsory Ed & Curricular Control: In a Nutshell

- Form 3 groups – 1 per table
- For the cases listed below, write a series of legal principles that you can draw from them.
- I’ve listed 1 principle to get you started.
- Do NOT identify which case(s) stand(s) for the principle.
Compulsory Education: In a Nutshell

Cases:

- *Pierce v. Society of Sisters*
- *Wisconsin v. Yoder*
- *Murphy v. Arkansas*
- *Jones v. West Virginia State Bd.*
- *Workman v. Mingo County Schools*
Compulsory Education: In a Nutshell

Principles:
The state has an interest in the education of its children independent of parental interests.
Curricular Control: In a Nutshell

Cases:

- Andrews v. Webber
- Meyer v. Nebraska
- Bd. of Ed. of Island Trees v. Pico
- Counts v. Ceadarville
- Mozert v. Hawkins
- Edwards v. Aquillard
- Kitzmiller v. Dover (Learn@UW)
- Debra P. v. Turlington
Curricular Control:
In a Nutshell

Principles:
The state has an interest in dictating what children must learn.
Trade your list of principles with a group that looked at the opposite issue (compulsory ed vs. curricular control).

Read the list of principles on your new sheet.

Identify which case(s) stand(s) for each principle.
Compulsory Ed & Curricular Control: In a Nutshell – Final Edit

- Trade your current list of principles with a group that has not touched it before.
- Read the list of principles on your new sheet.
- Add any principle(s) you think were missed.
- Identify which case(s) stand(s) for each new principle.
Time Allowing, share sample of online Legal Lesson...
TEACHING ONLINE STUDENTS
Sample Class Structure #1: Asynchronous
Share Search & Seizure
Narrated Powerpoint Presentation
Asynchronous Structure

Pros
- Convenient for working professionals (including me)
- Re-usable
- Less tech issues

Cons
- Less interaction
- More difficult to check for understanding
- More grading
CLOSING THOUGHTS
Closing Thoughts

- Interactive.
- Hold students to a high level of preparation.
- Explore the application & limits of legal reasoning.
- Provide a scaffold to help students learn to think from a legal perspective.
- Be as authentic as possible.
- HAVE SOME FUN!!!!
RESOURCES
ELA Resources

- Publications
- School Law Reporter Express (searchable database)
- Teaching Database
- Podcast Project
- Webinars
- The ELA Annual Conference
- Network of members
Other Resources

- US DOE Dear Colleague Letters & other resources
- Legal Clips
- Cornell Law School
- Duke University, Voices of American Law
- Education Week Blog
- The EdLaw Jurist Blog
- Youtube
- Twitter (e.g., @DrDeckerA608; @DrDeckerA308)