



School Law and Ethics  
Gwinnett County Public Schools



# Participant Guide

For use with School Law and Ethics eLearning course

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# Introduction

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## Welcome

Welcome to School Law and Ethics. Schools are treated as unique places in legislation and court rulings. Yet, school leaders face ever-increasing public scrutiny, unanticipated events, and frequent challenges to established policies and procedures. For these and other reasons, knowledge of applicable laws and court rulings is essential for school administrators.

The goal of this course is to help you better understand several amendments to the U.S. Constitution, the outcomes of specific U.S. Appellate Court and Supreme Court cases, and the federal Equal Access Act.

Armed with an understanding of the affects and direct impact of these laws and court rulings on the administration of public schools will help you make decisions that are consistent with local policies, as well as state and federal law.

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## Instructions

To complete this course...

- Complete each lesson and topic listed in the eLearning course menu
  - Complete the accompanying questions and participant guide activities
  - At the end of each lesson, meet with your principal or supervisor to review the results of your work in the lesson
  - Secure the signature of your principal or supervisor on the Progress Tracker (see next page)
- 

## Course Textbook

- La Morte, Michael. *School Law: Cases and Concepts*. Pearson, Education, Inc. Upper Saddle River, NJ 2012
- 

## Additional Materials

- *Local School Legal Issues* (Thompson Sweeny, 2011)
-

# Progress Tracker

| Lesson                         | Topic  | Check When Complete      | Enter Completion Date |
|--------------------------------|--|--------------------------|-----------------------|
|                                | Course Overview                                      | <input type="checkbox"/> |                       |
| <b>1.0 Lesson 1: Day One</b>   | 1.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 1.1 Day 1 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 1.2 Day 1 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 1.3 Day 1 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>2.0 Lesson 2: Day Two</b>   | 2.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 2.1 Day 2 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 2.2 Day 2 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 2.3 Day 2 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>3.0 Lesson 3: Day Three</b> | 3.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 3.1 Day 3 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 3.2 Day 3 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 3.3 Day 3 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>4.0 Lesson 4: Day Four</b>  | 4.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 4.1 Day 4 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 4.2 Day 4 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 4.3 Day 4 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>5.0 Lesson 5: Day Five</b>  | 5.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 5.1 Day 5 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 5.2 Day 5 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 5.3 Day 5 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>6.0 Lesson 6: Day Six</b>   | 6.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 6.1 Day 6 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 6.2 Day 6 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 6.3 Day 6 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>7.0 Lesson 7: Day Seven</b> | 7.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 7.1 Day 7 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 7.2 Day 7 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 7.3 Day 7 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |
| <b>8.0 Lesson 8: Day Eight</b> | 8.0 Lesson Overview                                  | <input type="checkbox"/> |                       |
|                                | 8.1 Day 8 Court Cases                                | <input type="checkbox"/> |                       |
|                                | 8.2 Day 8 Episodes                                   | <input type="checkbox"/> |                       |
|                                | 8.3 Day 8 Epilogue, Quiz & Follow-up with Supervisor | <input type="checkbox"/> |                       |

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| <b>Participant Name:</b>        | <b>Principal or Supervisor Name:</b>      | <b>Enter Completion Date</b> |
| <b>Participant's Signature:</b> | <b>Principal or Supervisor Signature:</b> |                              |

## 1.2 Day One Episodes

### Learning Objectives

- Explain how the Establishment Clause of the First Amendment to the U.S. Constitution has been applied to the public school setting through the courts and case law
- Apply the concept of “separation of church and state,” as defined by court cases to a public school setting
- Make correct operational decisions based on the legal definitions of “parent,” as it applies to public schools
- Explain how and why the federal courts have limited students’ constitutional right to written expression in the school setting
- Explain the rights that non-US citizen children have to a public education using case law and federal statutes
- Explain how school districts have been empowered by statutes and case law to establish mandatory courses in the school’s curriculum that require students to perform public service
- Make correct decisions regarding a specific group’s requests to use school facilities based on the provisions of the federal Equal Access Act and appropriate case law

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 1. Complete the exercises on the following pages for Day One episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.



## *Episode 1*

**Directions:** Answer the questions below and on the following pages.

1. Using the “Guidance on Constitutionally Protected Prayer in Public School Elementary and Secondary Schools” section of the textbook (pages 65-68) and the *Lemon v. Kurtzman* (1971) case, explain what law Mr. Smith is violating.

2. List the three prongs of the “Lemon test.” Explain which of the three prongs is applicable to the situation with Mr. Smith and why.



3. Write a memo to Mr. Smith (cc: Superintendent) documenting your conversation with him. State specific allegations, and list specific sanctions and/or remedies that need to be implemented to address this situation.

4. Write a letter to the parents of all the students in Mr. Smiths' calculus class explaining what has occurred and include the steps you have taken to rectify the situation (cc: the superintendent). Be careful with the wording of this letter; while you want to assure parents that the problem has been resolved, you also have to remember that employment actions taken by the District cannot be discussed with parents.

5. Excluding the previous steps taken, what are some things you can do to improve relations at the school and in the community and minimize widespread misinformation and confusion regarding the issue of separation of church and state?



## Episode 2

### Exercise A

**Directions:** Study the definitions of parenthood described below.

#### Categories of “Parenthood” Quick Reference Guide

| Type  | Legal Rights   | Exceptions   |
|---|--|--|
| Birth Parents   | Have full legal rights, full access to the student or the student’s records  | When birth parents have relinquished their parental rights through a legal process or a court has terminated their rights so that a child can be adopted |
| Adoptive Parents                                      | Have full legal rights, full access to the student or the student’s records  |  |
| Separated Parents (not divorced or legally separated) | Have equal legal rights  |  |
| Legally separated                                     | Legal parent is determined by court order  |  |
| Divorced Parent-Custodial Parent                      | Full legal rights, final decision maker with respect to education  |  |
| Divorced Parent-Non-Custodial Parent                  | Right to inspect student records, right to obtain copies of student records, right to receive explanations of regarding records<br><b>no right to visitation at school, no right to pick up child</b>                    | Court order expressly limits access to records;<br>Custodial parent agrees to allow school contact and/or pick-up  |
| Divorced Parents-Joint Custody                        | Without court order and/or parental agreement, the enrolling parent assumes priority rights  | Court order  |
| Legal Guardian  | Established by court order, has full legal rights  |  |
| Grandparent (residing in Georgia)                     | Parent must declare a hardship and sign a Power of Attorney granting rights – rights include enrolling child in school, access to school records, consent to medical treatment, any additional powers granted by parents | Parents retain the right to access school records  |
| Great Grandparent                                     | Same as grandparent  | Same as grandparent  |
| Step Grandparent                                      | Same as grandparent  | Same as grandparent  |
| Step Great Grandparent                                | Same as grandparent  | Same as grandparent  |
| Foster Parent   | Rights include enrolling child in school, access to school records, consent to medical treatment   |  |
| Step Parent (has not adopted the child)               | Is not legally functional equivalent of a parent, school is not obligated to deal with a step-parent   | In some cases when the child is classified as special education*   |
| Father not listed on birth certificate                | Father does not have rights to the child or his records  | Court order establishes fathers legitimacy   |

\*Under IDEA (Individuals with Disabilities Education Act) and related state department rules, a parent includes “an individual acting in the place of a natural or adoptive parent (including a grandparent, step-parent or other relative) with whom the child lives or an individual who is legally responsible for the child’s welfare.”

## Exercise B

**Directions:** Judge the responses to the superintendent’s “Categories of Parenthood” quiz listed below and on the following pages. Mark responses correct or incorrect, and explain your answers.

| #  | Scenario   | Response  | Correct or Incorrect?  | Reason for Your Answer |
|----|--|---|--|------------------------|
| 1. | A father arrives and requests to check his daughter out of school. He is divorced from his wife and claims to have joint custody. There is no court order defining the custody arrangement. The mother is the enrolling parent and has indicated that she does not want the father to be able to check the daughter out of school.   | The school can release the child to the divorced parent.                | <input type="checkbox"/> Correct<br><input type="checkbox"/> Incorrect |                        |
| 2. | A foster parent asks the school to provide him with a copy of the child’s permanent record.  | The school must comply.   | <input type="checkbox"/> Correct<br><input type="checkbox"/> Incorrect |                        |
| 3. | A (birth) mother enrolls her minor child in school. Months later, the (birth) father is arrested for embezzling thousands of dollars from a local business. The incident receives a great deal of publicity. The mother requests that the father not have access to the daughter or her records. While out on bail, the father comes to the school and requests copies of his daughter’s school records.   | The school should not give the father copies of his daughter’s records. | <input type="checkbox"/> Correct<br><input type="checkbox"/> Incorrect |                        |
| 4. | The parents of a student are separated. One lives in New York and the other lives with the child in Georgia. The parents live apart because their relationship has become bitter and confrontational, yet they have not divorced, and there is no court order. On his way through Georgia, the New York parent stops by the school and asks for copies of the child’s school records, especially the attendance records. He wants to use the attendance records in a future divorce proceeding in an attempt to prove his wife is an unfit parent. | The school does not have to release any information to the father.      | <input type="checkbox"/> Correct<br><input type="checkbox"/> Incorrect |                        |

| #  | Scenario  | Response  | Correct or Incorrect?  | Reason for Your Answer |
|----|---|---|--|------------------------|
| 5. | The mother (the enrolling parent) of a male student has been called to active military duty and is currently stationed overseas. The step-father, who has not adopted his step-son, is requesting that the boy be tested for special education services.  | The school can ignore his requests because a step-parent has no legal standing to his step-child's educational matters. | <input type="checkbox"/> Correct<br><input type="checkbox"/> Incorrect |                        |
| 6. | The parents of a student live in school zone "A," and their child attended the elementary school in that zone. Both parents have been arrested, convicted, and sent to jail on drug charges. Before they went to jail, they signed a Power of Attorney document granting the great grandparents "parental authority" rights over their child. The great grandparents live in school zone "C." The great grandparents request to withdraw the grandchild from the school in zone "A" and enroll the child in a school in zone "C." | The school should allow the transfer.   | <input type="checkbox"/> Correct<br><input type="checkbox"/> Incorrect |                        |

## Exercise C

**Directions:** The superintendent asks you to attend the next board meeting and give a brief description of the complexities principals face every day regarding operational definitions of parenthood and the applicable rights and restrictions. He asks you to submit a one-page synopsis of your talk prior to the school board meeting, and requests that you include one or two unique examples in your synopsis.

### The Complexities Defining "Parenthood"



## Episode 3

**Directions:** Answer the questions below and on the following pages.

1. Citing *Hazelwood School District v. Kuhlmeier* (1988), explain to the journalism teacher what her rights are in terms of censorship with regard to student writing. (Refer to textbook p.100-105)

2. Define for journalism teacher the three types of forums established by the U.S. Supreme Court for student expression (both written and oral), and explain which forum the school newspaper falls under. (textbook, p.104)



3. Explain the significance of the type of forum the student writing and/or speech is classified in and what affect the classification has on the school's right to censor student writing and speech. Explain the significance of the difference between a school-sponsored newspaper and a non-school sponsored newspaper.

4. Explain the limitations of the school's right to censor student writing, citing the two-tiered scheme of protection of student expression; one for personal speech, and the other for education-related speech.

5. A parent has written an editorial in the local newspaper accusing you of arbitrarily censoring students' freedom of written expression in the school newspaper. Write a brief rebuttal to the editorial explaining the authority school personnel have been given through case law (Hazelwood School District v. Kuhlmeier) to censor school sponsored publications.



## Episode 4

**Directions:** Answer the questions below and on the following pages. (Refer to textbook p.24)

1. Based on your knowledge of the Equal Protection Clause of the Fourteenth Amendment, and *Plyer v. Doe* (1982), how will you respond to the ACLU attorney's request for you to enroll the Immigrant girl in the high school?
2. Explain why an individual who is in the United States illegally under certain circumstances and situations can be protected by the Equal Protection Clause of the Fourteenth Amendment.
3. After you finish your telephone conversation with the ACLU attorney, you invite the two assistant principals (APs) into your office to discuss their handling of the Immigrant girl's attempt to enroll. Based on law and case law, explain to the APs what they did wrong.

4. How would you discipline the two APs for their actions? Write a memo to the APs to document the specific regulations/laws they violated, the discipline action(s) you have administered, and a plan outlining how you are going to educate them regarding the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution and how it pertains to the enrollment of non-US citizen students. Copy the memo to the superintendent and the APs' personnel files.

5. What steps would you take to ensure that the AP's mistakes with the Immigrant child are not repeated by other school personnel, such as counselors and department heads?



## *Episode 5*

**Directions:** Answer the questions below and on the following pages. (Refer to textbook p.94)

1. Using what you have learned from studying *Immediato v. Rye Neck School District* (1996) and the Thirteenth Amendment, please write a response to the curriculum chairman's email expressing your opinion on the value of a mandatory community service program.

2. Explain what Daniel's parents meant when they listed as one of their complaints in *Immediato v. Rye Neck School District* (1996) that the mandatory community service program infringed on their Fourteenth Amendment right to direct his upbringing and education.
3. The mandatory community service program in *Immediato v. Rye Neck School District* (1996) did not have an "opt out" or alternative provision. Give your opinion as to the value of having an "opt out" provision or an alternative provision, or both.

4. At the next faculty meeting, you plan to address the issue of the proposed mandatory community service program by delivering a brief speech on the rights of the school district to establish the curriculum. Develop a list of points you will make in your speech. Include case law or statutes that support your position that school districts have the authority to determine the curriculum.





## Episode 6

**Directions:** Based on the requirements of the Equal Access Act of 1984, and the history of an open forum at the high school, write a letter to the high school leadership council stating your recommendation or opposition to the students' request for a Student Muslim Study Club. Ensure that your letter addresses each of the requests made in the student petition. (Refer to textbook p. 65-75)

**Student Muslim Study  
Club Requests:**

- Access to a classroom for meetings
- Assurances that the school newspaper will announce meetings and report on activities
- Yearbook coverage equal to that given to other clubs

## 2.2 Day Two Episodes

### Learning Objectives

Apply the following concepts to a public school setting:

- Due process rights of teachers
- Tenure versus non-tenure
- "Related services" for special needs students
- §504 of the Civil Rights Act
- The rights of "language minority students" to a public school setting
- A school district's authority to establish curriculum
- The Fifth and Fourteenth Amendments to the U.S. Constitution

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 2. Complete the exercises on the following pages for Day Two episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.



## Episode 1

**Directions:** Answer the questions below and on the following pages. (Refer to textbook p. 275-277)

1. Using your knowledge of *Lau v. Nichols* (1974), and Section 504 of the Civil Rights Act of 1964, explain to the club members the federal requirements the high school is under to address the special language needs of all non-English speaking children and provide them a public education through meaningful programs. Be sure to include a statement regarding possible sanctions if you fail to abide by the federal requirements.

2. What remedy was included in the Equal Educational Opportunities Act of 1974 to make it easier for parents of non-English speaking children to ensure that their children received the educational benefits to which they are entitled? Why do you think this provision was included in the law?



## Episode 2

**Directions:** Create an outline for your lecture on the due process rights of students. Include the points and answers to the questions listed below in your lecture. Also use the legal vocabulary, court cases, legal principle, and your textbook, as well as the information about Due Process listed below.

### Points and Questions

- What is “due process?”
- What is the “Due Process Clause” of the Fifth Amendment?
- Explain why and how due process is a “fluid process.”
- In *Goss v. Lopez* (1975) the U.S. Supreme court held that a lesser version of due process must be given to students who are temporarily (ten days or less) suspended rather than expelled. List the rights the court said that temporarily suspended students must be given.
- In *Dixon v. Alabama State Board of Education* the U.S. Court of Appeals (1961), Fifth Circuit, declared that procedural due process was required for students when they are expelled. List the rights the court said that students who are expelled should be given.
- Explain how the components that currently makeup due process at the various levels has evolved through case law and how they may change in the future.

### About Due Process

Due process is a fluid concept. Its components change as situations change. Think of due process as being on a continuum. On the left end of the continuum you have minimal due process. Minimal due process is administered when an individual stands to lose very little in a situation. The less you stand to lose, the less due process is required. Likewise, the greater the value of what the individual stands to lose, the greater the level of due process must be given to the individual.

| Student Misbehavior         | Punishment                             | Personal Loss                       | Components of Due Process   |
|-----------------------------|--|-------------------------------------|---|
| Running in the hall         | 1 hour detention                       | Personal time                       | Notice of charges   |
| Fighting                    | 1 to 10 day suspension                 | Grades & academic and personal time | Notice of charges, explanation of evidence, opportunity for student to present his side   |
| Bringing a weapon to school | 10 or more day suspension or expulsion | opportunity to get an education     | Written notice of charges, formal impartial hearing, explanation of evidence, right to attorney, right to adverse evidence before hearing, right to cross exam, right to present own evidence and witnesses |

**Due Process Rights Of Students – Lecture Outline**

Blank area for lecture outline content.



## Episode 3

**Directions:** Complete the items below and on the following pages. (Refer to textbook p. 61)

1. Using your knowledge of *Mozert v. Hawkins County Board of Education* (1987), explain to the pastor how the federal courts at the appellate level have consistently ruled in the favor of school boards and have recognized the wide discretion of school boards to establish curriculum even in the face of parental disagreements.

2. Immediately after the pastor leaves your office, you call the superintendent to warn him of a possible situation. Write a brief memo to the superintendent documenting your concerns.



3. What can you do to inform parents of the school district's legal positions regarding the development of the school's curriculum and selection of textbooks?



## Episode 4

**Directions:** Answer the questions below and on the following pages. (Refer to textbook p. 158-163)

1. Using *Board of Regents of State Colleges v. Roth* (1972) what would you tell the teachers?

2. What argument do the courts use to distinguish between tenured and non-tenured teachers?

3. Why is it imperative that a principal (or any administrator) never give a probationary teacher (non-tenured teacher) a reason for the teacher's dismissal?

4. Explain why student due process conflicts are usually tried as a violation of the Fifth Amendment, while teacher due process conflicts are usually tried as a violation of the Fourteenth Amendment.



## Episode 5

**Directions:** Answer the questions below and on the following pages. (Refer to textbook p. 264-265)

1. The counselor asks you which if any of the procedures the parent is asking for will have to be paid for by the school system. Based on *Irving Independent School District v. Tatro* (1984) and *Cedar Rapids Community School District v. Garret F.* (1999), respond to the counselor.

2. Using the following two cases, define *related health services*:

- Irving Independent School District v. Tatro (1984)
- Cedar Rapids Community School District v. Garret F. (1999)

3. Use the two-part test established in the Tatro case to design a handout to give to new teachers in your school. The handout is to be used as a quick reference guide for determining legitimate “related health services” for students with special needs.



## Episode 6

### Exercise A

**Directions:** In an effort to have an informed policy development committee, the following handout was developed and disseminated to the committee members. The handout summarizes the important points in the current Georgia law related to public school attendance. Study the handout.

#### Age Requirements for Public School Attendance

##### I. Compulsory Attendance Ages (O.C.G.A. 20-2-690.1)

All students between their 6th and 16th birthdates must be enrolled in and attending one of the following: public school, alternative school, private school, or home school. However, if a child is under 6 and has attended more than 20 days in a public school, he is then subject to the compulsory attendance laws. 20-2-150(C). Failure of parents to compel children to attend may be in violation of Georgia law.

##### II. Voluntary Attendance Ages (O.C.G.A. 20-2-150)

1. Students must be 5 by September 1st of the enrolling year. (Presenting false documents to obtain school admission is a prosecutable offense.)
2. Students transferring into a Georgia public school from other states:
  - a. must have been a resident two or more years outside Georgia immediately prior to transfer; and
  - b. attended a state accredited kindergarten or first grade outside Georgia (private pre-school, kindergarten, or primary grades in Georgia are not accepted); and
  - c. will attain the age of 5 for kindergarten or 6 for first grade by December 31.
3. The upper age limit for a student to enroll in a Georgia public school is 20 unless the student turns 20 before September 1st of the enrolling year. This includes students who are pregnant and/or those who have dropped out and wish to return. Students can continue in school if they do not turn 21 before September 1st if no lapse in enrollment for a quarter or more has occurred.
4. Special Education students can attend school through age 21. Special circumstances and/or the student's I.E.P. may affect attendance eligibility.

## Exercise B

**Directions:** As an “ice breaker,” you start the policy development committee meeting with a challenge for members to correctly resolve the hypothetical enrollment dilemmas listed below. Resolve each dilemma by stating whether the enrollment should be allowed or denied, and include the reason(s) for your decision.

1. A student classified as requiring special education services appears at your office in early August with a legitimate IEP wanting to enroll in your high school. He is 20 years old and will turn 21 next May.
2. A couple has just moved back to Georgia after a one year absence and wish to enroll their daughter into kindergarten. The girl has attended a state accredited kindergarten in Florida. She will turn 5 years old on November 11th.
3. A man calls to report that his neighbor has a school aged child and that the child is not attending school in violation of the Georgia mandatory school attendance laws. Your investigation reveals that the child is 5 years old and has never attended a public school.



4. On August 1st a female student who dropped out of school to have a baby comes to the high school attempting to enroll for the new academic school year. She is 19 years old and her birthday is October 6th. She will be a transfer student from a neighboring school system. She resides in your school district attendance zone. Because she is legally married she is considered an emancipated person.
  
5. Parents want to enroll their son in first grade. They have just moved to Georgia from Idaho where they have lived for the last seven years. Their son is five years old and will turn 6 on December 25th. He has attended kindergarten in a private school in Idaho. The private school was not accredited by the state of Idaho.
  
6. An 18 year old student who dropped out of school two years ago wants to return to school. He will turn 19 on September 3rd.

## Exercise C

**Directions:** After the ice breaker activity, the committee begins discussing two proposed changes in the mandatory age requirements for Georgia public schools. Take a position on each issue. Explain your positions in the space below.

### Proposed Changes

1. Elementary schools use student attendance as one of the measures of annual school effectiveness. Some parents of kindergarten students (five year olds) know that school attendance is not legally required of five-year-olds, and they take advantage of this loophole to send their children to school when the mood fits. These elementary schools suffer because of these absences. Therefore, some elementary school principals are advocating lowering the required age for attending public schools from six years old to five years old.
2. Most of the students in high school fall between the ages of 14 and 18. Students can legally (with parental permission) quit school after their 16th birthday. This means that half of the students in a high school know that (with parental permission) they can legally walk out the school. Some high school principals are advocating increasing the mandatory school attendance age to 18.

## 3.2 Day Three Episodes

### Learning Objectives

- Explain the relationship between primary and supplemental teaching contracts
- Apply the rights of a tenured teacher or coach to a public school setting
- Apply the property rights of graduating high school students
- Explain how the Free Speech Clause of the First Amendment applies to student oral expression in the public school setting
- Explain how tenured teachers can be given appropriate due process and still be terminated for incompetence
- Explain how the implementation of corporal punishment in the public schools does not violate the "Cruel and Unusual Punishment Clause" of the Eighth Amendment
- Apply the due process rights of students receiving corporal punishment
- Explain how Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 apply to teacher-on-student sexual harassment cases
- Define the rights of "employee to student" sexual harassment victims

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 3. Complete the exercises on the following pages for Day Three episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.



## Episode 1

**Directions:** Write a letter to Ms. Trotter explaining the fallacy of her reasoning regarding potential vacancies in the social studies department for next year. Include the courts' position on the separation of teaching contracts from supplemental coaching contracts and the effect of the termination of the supplemental contract has on the tenured teachers teaching contract. Refer to the resources listed below as you complete this activity.

- Ohio School Boards Association publication: [\*The Difference between Pupil Activity and Supplemental Contracts\*](#)
- McGlynn et. al. v. Board of Education U.S.D. 215 (2004)
- Quote from *The Principal's Quick-reference Guide to School Law: Reducing Liability, Litigation, and Other Potential Legal Tangles* (Dunklee, D. R. & Shoop, R.J. Thousand Oaks: Corwin Press. 2006. p. 102.)

“...Coaching duties must be performed under supplemental contracts; teachers cannot be required to accept such duties as part of their primary contracts, and teachers can unilaterally terminate or non-renew their supplemental contracts without affecting their primary contracts ...supplemental duties, even when conducted during the school day, are not part of a teacher's primary contract....Teachers employed as coaches are not deprived of property rights when that employment is discontinued.... “





## Episode 3

**Directions:** Using the following resources, explain to the superintendent the school's solid legal position in suspending the student performer for using profane speech during his talent show performance.

- Bethel School District No. 403 v. Fraser (1986) (textbook p. 94-98)
- Free Speech Clause of the First Amendment of the U.S. Constitution (textbook p. 364)
- Fourteenth Amendment of the U.S. Constitution (textbook p. 366)



## Episode 4

**Directions:** The English school administrators have questions about the process for dismissing incompetent tenured teachers in American high schools. Answer their questions below. Refer to the article, [Dismissing Incompetent Teachers](#), as you complete this exercise.

1. How is teacher incompetence defined in America?

2. Is it true that it is almost impossible in America for public school administrators to successfully fire an incompetent tenured public school teacher? If so, why? If not, why not?

3. What affect does the U.S. Constitutional guarantee of “due process” for tenured teachers have on the ability of school administrators to successfully terminate incompetent tenured teachers?

4. What were the behaviors and/or misbehaviors of the tenured teacher listed in Aaron v. Alabama State Tenure Commission (1981) that the court found to be sufficient grounds for termination?



5. What are some additional teacher behaviors and misbehaviors that the courts have found sufficient to sustain the dismissals of tenured teachers based on incompetence?

6. Define insubordination.

7. Explain the difference between incompetence and insubordination.



## Episode 5

**Directions:** The parents of a student from another school system have questions about the legality of administering corporal punishment in school. Answer the parents' questions using the following resources:

- *Ingraham v. Wright* (1977) (textbook p.124)
- Cruel and Unusual Punishment Provision of the Eighth Amendment of the U.S. Constitution (textbook p. 365)

1. Is it legal for a school employee to physically strike a student as a punishment? If not, why not? If so, under what circumstances and conditions can corporal punishment be legally administered?

2. Can a school system administer corporal punishment to a student without the consent of the parents?

3. What components of “due process” must be given to the student before corporal punishment can be administered?

4. What factors are generally considered by the courts in determining whether the amount of physical force used to administer corporal punishment is reasonable? (textbook p. 124-129)

5. Why is corporal punishment not considered “cruel and unusual punishment” as defined by the Eighth Amendment of the U.S. Constitution?

6. Do the parents in this scenario have a chance to win if they choose to litigate the use of corporal punishment to discipline their son?



## Episode 6

**Directions:** Answer the neighboring police chief's questions using the following resources:

- Franklin v. Gwinnett County Board of Education (1992) (textbook p. 332-333)
- Title VII of the Civil Rights Act of 1964 (textbook p. 332, 367-369)
- Title IX of the Education Amendments of 1972 (textbook p. 370-371)
- [Office of Civil Rights](#)

1. What federal laws exist to protect students from teacher-to-student sexual harassment?

2. Which federal law deals more with sexual harassment in the school setting?

3. How is sexual harassment defined by the federal government? What are the various categories of sexual harassment and which one(s) are pertinent to this case?

4. What, if any, court cases deal with teacher-to-student harassment? Was the school and/school system held liable? If so, why? If not, why not?

5. What is “deliberate indifference?”

6. Is the guidance counselor in this case guilty of “deliberate indifference”? Why, or why not?

7. Under Title IX, can students sue to collect monetary damages from the school system?

8. What federal agency enforces Title IX? What federal agency should a student contact to file a complaint if they are victims of student-teacher sexual harassment?

9. Under what conditions would the principal be liable in a teacher-to-student sexual harassment case? Is the principal liable in the current case? Why or why not?
10. What can a principal do to limit or prevent teacher-to-teacher, teacher-to-student, and student-to-student sexual harassment?
11. If you were the neighboring police chief, how would you conduct the investigation at the high school?



## 4.2 Day Four Episodes

### Learning Objectives

- Apply the following concepts, as defined by court cases, to a public school setting:
  - Student privacy
  - Reasonable suspicion
  - Public versus private speech
  - Electronic or digital speech
  - Rights of handicapped students
- Explain how the following have been applied to the public school setting through the courts and case law:
  - Family Education Rights and Privacy Act of 1974
  - Section 504 of the Rehabilitation Act of 1973
  - Free Speech Clause of the First Amendment to the U.S. Constitution
  - Duties of school administrators to care, supervise, and protect students while monitoring changes in child custody

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 4. Complete the exercises on the following pages for Day Four episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.



## Episode 1

**Directions:** Listed below are hypothetical requests to release student records. For each request, state whether the school can or cannot release the student information, and give any conditions required by the law which must be met before records can be released.

1. The school receives a transfer of student records request from a school in another state.
2. A member of the Southern Association of Colleges and Schools (SACS) visiting accreditation review committee asks to see the educational records of ten randomly selected students.
3. A U.S. Army recruiter quotes the provision provided in the federal No Child Left Behind law which requires schools that receive federal funds to provide access to student contact information if requested. The recruiter is requesting said contact information for all juniors and seniors.

4. The school receives a request for a student's transcript from the financial aid officer of a local college to verify a student's academic standing.
  
  
  
  
  
  
  
  
  
  
5. The assistant principal requests to see all student records to file the current student immunization forms.
  
  
  
  
  
  
  
  
  
  
6. A representative from the Educational Testing Service, which administers the ACT and SAT for college bound high school students, requests copies of several high school students academic transcripts to use in a study to validate ACT score distribution in the state.
  
  
  
  
  
  
  
  
  
  
7. An agent from the Office of Civil Rights (OCR) requests student records as part of his investigation of a Title IX complaint.

8. Two investigators from the National Collegiate Athletic Association (NCAA) demand to see the student records of two high school football players for an ongoing investigation. They state that they cannot release any more information about the investigation and are requiring that you not notify either the students or their parents.
  
  
  
  
  
  
  
  
  
  
9. An Emergency Medical Technician (EMT) calls and requests the blood type of a student. The blood type is posted in the student's educational records. The student in question is an only child who has been in an accident, and the EMTs have been unable to contact the parents.



## *Episode 2*

### **Exercise A**

**Directions:** Based on your knowledge of *New Jersey v. T.L.O* (1985) and the Fourth Amendment, defend your actions and position in dealing with Betty.

## Exercise B

**Directions:** Write a letter to the superintendent informing him of your pending recommendation of the expulsion of Betty. Make sure your letter includes the pertinent facts and appropriate charges based on the law and school board policy.



## Episode 3

**Directions:** Based on your knowledge of *Grube v. Bethlehem Area School District* (1982), and §504 of the Rehabilitation Act (1973), indicate beside each service or modification (if any) listed below which ones you think Stephen would qualify for under Section 504. Explain why Stephen would or would not qualify for the service and/or modification.

1. Modified desks in every classroom in Stephen's schedule to fit his physical size.
2. A bottom locker.
3. Modified or raised seat in the lunchroom.
4. At least one platform by a water fountain in the school.
5. Allowance to leave class early for additional travel time between classes.







## Episode 4

### Exercise A

**Directions:** Consider the legal principle below as you answer the questions that follow. (Refer to textbook p.364)

| Legal Principle   |
|---|
| When a teacher disagrees with you, or expresses the fact that he or she does not like you, neither the teacher's beliefs nor his or her actions equal an act of insubordination. However, the Georgia Code of Ethics for Educators does require teachers to act professionally in the commission of their duties. |

1. Based on *Givhan v. Western Line Consolidated School District* (1979) what would you say to the assistant principal regarding Mrs. Gallagher's behavior, her First Amendment rights, and his desire to have her terminated?

2. In your opinion, would this case be different if the teacher had verbally abused the assistant principal in public instead of in private? Why?

3. What steps would you take, if any, to mitigate or minimize any future conflicts between the assistant principal and Mrs. Gallagher?



## Episode 5

**Directions:** Outline a talk you will give to the Downtown Merchants Association (DMA) explaining the current legal status of student free speech and websites, including the following:

- Why the courts ruled differently in two cases: *J.S. v. Bethlehem Area School District* (2002) and *Beussink v. Woodland R-IV* (1998)
- Define “substantial disruption” and how it impacts influences court decisions
- Explain the importance of the location and ownership of the computers and Internet access when the websites were created and where they are currently housed (i.e. at home with personal equipment or on school property with school equipment)
- Give your opinion regarding the future of student First Amendment free speech rights and the Internet

### Footnote: Legal status of student free speech and websites

The legal issue of a student’s free speech rights in the electronic or digital media is unsettled law. There have been many seemingly conflicting opinions at the U.S. Court of Appeals level regarding this issue. The most recent example of this was addressed in an article by McCormack and Carrick when they wrote the following:

“.....Blue Mountain creates what appears to be a split between the rulings of the Second Circuit and the Third Circuit. In the Second Circuit cases of *Doninger v. Niehoff* (Apr. 25, 2011) and *Thomas v. Board of Education* (1979), the Second Circuit found that student-communicated messages that exhorted hostility toward school officials were potentially disruptive to the educational process. Simultaneously, the Third Circuit ruled on two cases involving students who created fake MySpace profiles mocking their principals.

In both *Layshock v. Hermitage School District* (June 13, 2011) and the decision of the en banc rehearing of *Blue Mountain J.S. v. Blue Mountain School District*, No. 08-4138 (3rd Cir., June 13, 2011), the Third Circuit panels found that the school systems violated the students First Amendment free speech rights when they punished the students for creating hostile and defamatory MySpace pages that parodied school administrators. You would hope that the diametrically opposed decisions between the Second Circuit and the Third Circuit over digital communications and student’s free speech rights would generate some interest in the U.S. Supreme Court to resolve the judicial conflict....”<sup>1</sup>

Fortunately, the U. S. Supreme Court has chosen to address the student-speech issue as it applies to digital communications by placing the *Blue Mountain* case on the Court’s 2012 docket. It is hoped that the Supreme Court can provide guidance to eliminate confusion on the part of the school administrators as to how and to what extent they should act when they fall victim to cyber abuse by students.

<sup>1</sup>McCormack, Thomas, and Charles Carrick. "Case and Commentary: *J.S. v. Blue Mountain School District*." *Journal of Teaching, Learning, and Research in Educational Leadership*. 1.1 (2011): pages 69-75. Web. 23 Dec. 2011. <[www.gelfajournal.org](http://www.gelfajournal.org)>.





## Episode 6

### Exercise A

**Directions:** Using the following list of precautions, analyze your actual school's check-out system. On the following page, make a list of recommendations to increase the level of safety for your students.

#### Precautions

- A) Only the enrolling parent or his/her authorized representative can take physical custody of a child at school.
- B) In the case of a child born to biological parents who are not married, the mother alone enjoys parental rights.
- C) The biological father can gain parental rights only by marriage or by court finding of paternity.
- D) In *Lalli v. Lalli* (1978), the U.S. Supreme Court ruled that states must recognize the paternal rights of a father who has been married to the mother or been adjudicated as the legal father.
- E) The court may grant custody to one parent or it may grant joint custody to both parents.
- F) In the case of sole custody, the custodial parent alone has the power to make parental decisions.
- G) When a court issues a decree of adoption, the natural parents no longer have a legal relationship to the child.
- H) A general court order does not entitle the person asserting the right to have the student released to his/her custody unless the court order expressly states that the custody order is to be effectuated at the school.
- I) DFACS or police with court orders granting them custody or arrest warrants may remove students. Always obtain copies of credentials, court orders, arrest warrants, etc. and keep them for documentation.
- J) School officials are immune from civil or criminal liability for preventing or attempting to prevent violations of this law.
- K) Last but not least, the case of *Franklin v. Gwinnett* (1992) has shown us that school administrators must also be concerned about teachers removing students from other teacher's classrooms. In that case a teacher consistently removed a student from other teacher's classrooms during the school day for illicit purposes and no one stopped the behavior.

**Recommended Changes for Student Check-out system**

A large, empty rectangular box with a thin black border, intended for participants to write their recommended changes for the student check-out system. The box is currently blank.

## Exercise B

**Directions:** The following is a list of individuals who have come to the high school to check-out a student. For each situation, answer “Yes” or “No” to specify whether or not you should permit the students to be checked out, and include a reason for your answer.

1. A neighbor of the student in question. You know the neighbor, but her name is not on the student’s approved list on the check-out card.
2. A teacher at this school. The teacher’s name is not on the student’s approved list on the check-out card.
3. A police officer without a court order (warrant).
4. An investigator for the NCAA (The National Collegiate Athletic Association).
5. A biological father whose name is not on the student’s approved list on the check-out card.
6. A non-custodial parent whose name is on the approved list of the check-out card.

7. A mother who is estranged from the father but still legally married to him. No custody papers exist because they are still married. Student lives with father. The mother's name is still on the approved list of the check-out card.
  
  
  
  
  
  
  
8. An uncle whose name was on the approved list of the check-out card but has been removed.
  
  
  
  
  
  
  
9. A foster parent who has not yet been given official custody papers from the court.
  
  
  
  
  
  
  
10. An agent from the State Child Welfare office.



## 5.2 Day Five Episodes

### Learning Objectives

- Explain how the unauthorized altering of a student's grades on their permanent record is a violation of one of the standards of the Georgia Code of Ethics for Educators
- Describe the reporting requirements of a principal who becomes aware of an unethical infraction as set forth in the Georgia Code of Ethics
- Apply the following concepts, as defined by court cases, to a public school setting:
  - Student freedom of expression
  - Substantial disruption
  - Searches of students
  - Copyright and copyright infringement
  - Teacher moral turpitude
  - Right to privacy versus full disclosure
- Explain how the following have been applied to the public school setting through the courts and case law:
  - Georgia's Open Records Act
  - Copyright Act of 1976

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 5. Complete the exercises on the following pages for Day Five episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.







## Episode 2

### Exercise A

**Directions:** Answer the following questions related to the investigation into potential gang activity by the students found in the student parking lot.

1. Based on a full interpretation of *Tinker v. Des Moines*, emphasizing the “potential of a material and/or substantial disruption” exemption outlined in the case, how would you respond to the schoolyard lawyer’s claim that the wearing of armbands is protected by the Freedom of Expression Clause of the First Amendment?
2. If you had wanted to pursue the student’s violation of the school’s “gang attire” policy, based on the *Olesen v. Board of Education* case, defend the school system’s authority to enforce the dress code policy.

3. Based on the gang related information you have received from all sources and your knowledge of the students' disciplinary records, would you search them for weapons? Why, or why not? Refer to *New Jersey v. T.L.O.* (1985) as needed.

4. Would you search their lockers? Why, or why not? Would you search their cars? Why, or why not?

5. Would you ask the local police to assist you in any part of this case? If so, when would you call them in and what would you ask them to do? If not, why not?

6. Based on your knowledge of the *Honig v. Doe* (1988) case, and the “new exceptions” to the case law through federal legislation (*Improving America's School Act of 1994*), how do you respond to the schoolyard lawyer’s claim that he can’t be suspended or sent to the alternative school?
7. How would you respond to the schoolyard lawyer if he claimed that his Fourth Amendment rights were violated when you had his car searched? Respond to the schoolyard lawyer’s claims that because you did not have “probable cause” the search is illegal and anything found in an illegal search cannot be used against the student. Therefore, he cannot be expelled.



## Episode 3

**Directions:** Read the letter below and answer the questions on the pages that follow.

Dear High School Principal,

Our records indicate that your high school purchased registered copyrighted math tutoring software from our company two years ago. At that time you paid for a “one package to one work station” license agreement. That equaled a total of 25 copies of the registered software for your 25 computer station laboratory. Also, our records indicate that this summer the high school purchased one copy of the current math tutoring software updates.

This is to inform you that during the past four months the Copyright Enforcement Department of our company has detected that your computer lab has made 30 illegal copies of our registered copyrighted software updates. We can provide you with the dates and times each illegal copy has been used. Our registered copyrighted software carries hidden electronic flares and tags. When illegal copies are made, an electronic flare is sent via the Internet to the mainframe computer of our Copyright Enforcement Department. Each illegal copy is given a unique electronic tag when it is copied. This unique tag records every time and date the illegal copy is used. According to our records, the 30 illegal copies of our registered copyrighted math tutoring software have been used 633 times to date.

We are demanding that you cease using the illegally copied registered copyrighted software. We ask that you immediately destroy all illegal copies of the software currently in your possession. If you want to use the updates for the math tutoring software we ask that you pay the appropriate license agreement fees immediately.

We refer you to the penalties of copyright infringement as outlined in the 1976 Copyright Act and its amendments. According to the act substantial statutory damages for willful infringement of registered copyright may total up to \$100,000 per work infringed. Also, we are eligible to recover actual damages and an award of attorneys’ fees.

Please contact us as soon as possible to resolve this issue.

Sincerely,

Mr. Corporate Attorney, Esquire

1. What steps would you take to resolve this issue? At what point in your actions would you contact the superintendent? At what point in your actions would you contact the school board attorney?



2. You check the master schedule and confirm that the period in which the illegal copies were made is the computer science teacher's planning period. You walk down to the computer lab to talk to her. What do you say to her? Write a memo to the teacher documenting your meeting with the computer science teacher.

3. What steps can you take or what procedures can you put in place to ensure that copyright infringement by the faculty and staff does not occur in the future?



## Episode 4

**Directions:** Read the points related to Mr. Jones' situation, and then answer the questions that follow.

### The Good, the Bad, and the Ugly....Facts

#### The Good

- Mr. Jones is a tenured teacher who is respected by the students, the staff, and the faculty
- He has always had excellent teacher evaluations
- He is quiet, polite, and humble, and professional at all times.
- He is viewed by the students as rigorous but fair
- He was the teacher-of-the-year two years ago
- He rarely has student discipline problems in his classes
- He was the first teacher to volunteer to give up his planning period to help cover one of Mr. Abdul Smith's calculus classes
- The quality of the digital video is so poor that no one can make a positive ID of the person shown on the video

#### The Bad

- Mr. Jones admits to you in private that he is a dancer for a nightclub in a large metropolitan city three hours from the high school and in another state
- For his performances, he wears what could be described as a male European swimsuit, and is never completely naked
- Some parents have contacted the school requesting that their children be transferred out of his classes
- Three teachers have complained that this whole issue has the students upset and has become a disruption to their classroom instruction

#### The Ugly

- Two members of the board of education are against Mr. Jones, two members are supporting him, and the fifth board member will vote for whatever you recommend
- The superintendent is requiring you to resolve the issue
- Two preachers of very small churches are campaigning against Mr. Jones
- A dirt digging journalist from the local newspaper has discovered that Mr. Jones dances every weekend at the nightclub

1. Essentially, the superintendent and the board of education are forcing you to make the decision to either recommend the termination of or the continued employment of Mr. Jones. What steps (administrative procedures) will you take to resolve this issue?

2. What course of action will you recommend to the board of education and why?



## Episode 5

**Directions:** Use the resources below as needed to complete the superintendent's test on the Georgia Open Records Act.

- Georgia Open Records Act:
  - [Article 4](#)
  - [Article 5](#)
- [Georgia's Public Schools and the Open Records Act: A Citizen's Guide to Accessing School Records](#)

### The Test

Each scenario in the test represents a request under the auspices of the Georgia Open Records Act for information from a public school. According to the law, when a school receives a request for records they must do one of the following: (1) within three days produce the records requested; (2) within three days produce a written description of the records requested and timetable for their inspection and copying; or (3) within three days submit a list of the records you will not produce citing specific code provisions for each record that protects them from disclosure.

For each scenario, explain whether the school is required or not required to release the requested information per the mandates of Georgia's Open Records Act. If the school is not required to release the requested information, give the reason supporting the refusal.

**Example:** A parent requests the results of a teacher's annual performance evaluations for the past three years. *Not required to release teacher evaluations. Teacher evaluations are exempted by the law.*

### Scenarios

1. A parent has requested the past three annual teacher evaluations of his child's French teacher.

2. Last year you dealt with a disciplinary case involving date abuse. A male student had been physically and verbally abusing his girlfriend. You dealt with the pair in several incidents, and at the end of the school year you held a final hearing, punished the male student for physical abuse at the school, and closed the file. The mother of the male student was told that the file contains some derogatory notes you wrote during the course of last year which defame her son. She wants a copy of the file.
3. A parent who thinks that his daughter's Algebra teacher spends a lot of class time emailing friends, visiting social Internet sites, and surfing the Internet for personal reasons during instructional time wants copies of the teachers emails for the past month.
4. The local teachers union wants to give monetary rewards to teachers whose students have shown improvements in their achievement test scores from last year to this year. In order to identify those teachers, the union needs the names and corresponding achievement test scores of students.



8. A local newspaper reporter believes that a high school football coach has lied about his previous coaching experiences and wants a copy of that coach's employment application.

9. A local insurance salesman is requesting the names, home addresses, and telephone numbers of all the teachers at the school so that he can contact them and offer them great deals on life insurance.



## Episode 6

### Exercise A

**Directions:** The parents in the high school athletic booster club have questions about drug testing of athletes. Refer to the resources and facts listed below to answer the questions that follow.

#### Resources

- Textbook p. 24, 134-140
- [Drug Testing: Background Information](#)
- Vernonia School District 47J v. Acton (1995)
- Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls (2002)

#### Facts

- The high school student population is 1,200
- 840 students (70%) participate in one or more high school sports
- There is only one health related service company in town that performs drug testing
- No single test covers all illegal drugs:
  - The least expensive test is \$30 and covers barbiturates and marijuana
  - It does not test for alcohol, methamphetamines, cocaine, or heroin
  - Testing for additional drugs costs an extra \$10 per drug tested
- It will cost \$25,200 (840 student athletes times \$30 per test) to test all student athletes once this year
- It will cost \$2,520 dollars to randomly test 84 (10%) of the student athletes each year
- The school system and each school have been asked to identify possible areas to cut the budget for the next school year

1. Because there is no “probable cause” when students are tested for drug use, is the drug testing of student athletes a violation of their Fourth Amendment rights against unreasonable “searches and seizure?”



2. Can we make drug testing mandatory for any student who wants to participate in our athletic programs?

3. For fairness, could we require students who participate in the high school marching band to be tested for drugs? Can we test all students at the high school for the illegal use of drugs? Who (what students if any) would you recommend to be tested? Why?

4. If you recommend a drug testing program for students, what drugs would you test for and why? Is it easy for students to defeat drug tests?

5. How will you fund a student drug testing program?

6. How will the drug testing program be administered? How will the students be selected? Who, what member of the faculty or staff, will be responsible for administering the drug testing program?

7. What components, if any, of due process will you give the students to be tested?

8. Who gets copies of the drug test results? How do you keep the information private?
9. What steps do you take when a student does test positive for illegal drug use? What will the punishment be?
10. How do you protect students from “false positives?”
11. What role will the police play, if any, in positive drug tests?
12. Will you provide a rehabilitation component to the drug testing program?

**Note:** In most cases drug testing of students is a simplistic answer to a more complicated problem. Also, drug testing is only the front end of a viable prevention program. Principals need to anticipate that one day at least one student will show positive for drug use. The back end of a good drug prevention program is knowing what you are going to do if and when a student does test positive.

## 6.2 Day Six Episodes

### Learning Objectives

- Explain how the following have been applied to the public school setting:
  - Law of torts
  - Common law
  - Subpoenaing
  - Due Process Clause as applied to standardized testing
- Apply the following concepts as defined by statutes and court cases:
  - Negligence
  - Reasonably prudent person
  - Teacher's duty to care
  - Teacher's right to privacy
  - Test validity and reliability

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 6. Complete the exercises on the following pages for Day Six episodes 1 through 5. Then meet with your principal or supervisor to review the results of your work.



3. Define “tort.” Then list, explain, and give an example of each of the three categories of torts.

| Tort Category                  | Defined   | Example  |
|--------------------------------|---|--|
| Invasion of Privacy            | Direct invasion of someone’s legal right                                      | person peeping into a neighbor’s window at night   |
| Denial of Constitutional Right | Breach of some public duty that causes damage to an individual                | Suspending a student without giving them due process   |
| Negligence                     | Violation of some private obligation that causes some damage to an individual | A high school shop teacher leaves his students unattended while they are using power tools and a student gets hurt |

4. Define in loco parentis, [http://en.wikipedia.org/wiki/In\\_loco\\_parentis](http://en.wikipedia.org/wiki/In_loco_parentis).

### Legal Principle

Legal principle: When an individual earns and accepts a certificate to teach, they are also accepting several duties to perform, including...

- The duty to care (for their students)
- The duty to adequately supervise their students
- The duty to teach

**NOTE:** Even if no statutory laws exist requiring teachers to perform these duties, common law has established that once an individual accepts a teaching certificate, he or she automatically assumes the obligation to perform these duties in good faith and to the best of his or her ability. The performance of these duties is non-negotiable. This is true in all fifty states.

5. Define “duty of care.”

6. Why are teachers held to a higher standard of duty of care for their students than a regular person off the street?

7. The following concepts have been used by educators when defending themselves in tort cases:

- Inevitable accident
- Assumption of risk
- Contributory negligence
- Comparative negligence

List and explain each concept.





3. Why are teachers and principals more likely to be personally sued for negligence above all other categories of education employees? If a teacher or principal is found guilty of negligence for failing in their duty to care for their students, can the judgments be financially and emotionally crippling? If so, why? If not, why not?

4. When a teacher violates their duty of care for students and is accused of negligence, the courts use the “reasonably prudent person” test to determine guilt. Explain who a “reasonably prudent person” is and explain how the courts use this definition as a test to determine guilt or innocence.

5. Explain each of the following concepts that affect or influence the level of care required by a teacher in a given situation.

| Concept  | Explanation |
|--|-------------|
| 1) Foreseeability (Could the incident have been foreseen and prevented?) |             |
| 2) Age of the student  |             |
| 3) Physical or mental ability of the students                            |             |

6. Imagine that you are the attorney for an injured student. For each scenario below, use one or more of the following concepts to argue for a case of negligence:

- 1) Foreseeability
- 2) Age of the student
- 3) Physical or mental ability of the students

| Scenario   | Reason for Negligence |
|--|-----------------------|
| A. While using a table saw, a special education student cuts off his finger. The teacher required all students to read a safety manual written at a 10th grade reading level as the only safety requirement to qualify to use the saw.   |                       |
| B. A Physical Education (PE) teacher requires all students to participate in a game of dodge ball and a very large senior boy strikes a small freshman girl with a ball knocking the girl off her feet. She hits her head on the concrete floor with such force she suffers a concussion.                                |                       |
| C. While on a field trip downtown a high school social studies teacher goes to great lengths to explain the importance of crossing the streets together at the appropriate crosswalks. One student jaywalks and is struck by a car.  |                       |
| D. The principal knows that wasps have built nests under the ceilings of the breezeways between all the academic buildings. Nothing is done to get rid of the wasps before the first day of school. On the first day of school a student who is highly allergic to wasp stings is stung, falls and breaks his right arm. |                       |

| Scenario  | Reason for Negligence |
|---|-----------------------|
| <p>E. When studying the medieval dark ages, a kindergarten teacher allows the boys in her class to make swords out of scrap wood and pretend that they are medieval knights during recess. During recess a boy in her class is struck in the face with one of the swords and loses his right eye.</p>   |                       |
| <p>F. As punishment, one of the high school assistant principals places a special education student in a janitorial closet for isolation. While in the closet the student drinks floor cleaner, goes into a convulsion, and almost dies.</p>  |                       |
| <p>G. There are no locks on the electrical panels or the doors to the electrical closets at the high school. A student goes into the electrical closet, opens the electrical panel, and when he attempts to flip some of the electrical breakers he is severely shocked and burned.</p>   |                       |
| <p>H. A high school English teacher has a very violent student in her class. He has been punished seven times for striking other students in the class. The most recent incident occurred on Monday. The English teacher has asked for and been granted a day of personal leave for Friday. On Friday the English teacher is absent (on her personal leave). She leaves very complete lesson plans for the substitute teacher but never warns the substitute teacher of the violent student's tendency and history of striking other students. No administrator warned the substitute teacher of the violent student's tendency to violent behavior. On Friday when the substitute teacher is not looking the violent student sticks a pencil in another student's left eye, blinding the student for life.</p> |                       |



## Episode 2

**Directions:** Outline your response to Mr. MacArthur by answering the questions on the following pages. Refer to the testing facts in the table below as needed.

| Student Testing Facts  |
|--|
| The state of Georgia has plenary power over the public schools in the state.   |
| The Georgia State legislature created the Georgia State Board of Education and the Georgia State Department of Education through statutes in order to provide a public education for the children of Georgia.  |
| The Georgia State School Board and the Georgia State Department of Education have developed, implemented, and monitored an ongoing student assessment program.   |
| The federal courts have consistently ruled that the states and not the courts have the expertise to determine a students' academic attainment. (Board of Curators of University of Missouri v. Horowitz, and Gaspar v. Bruton)   |
| "....The state has the authority to establish standards for promotion and graduation. In recent years, states have begun to rely more and more on the standardized test as a criterion to determine students' competencies. So as long as such measures of academic attainment are reasonable and nondiscriminatory, the courts will not intervene.....The courts confine themselves to determining whether due process is given, whether discrimination exists, or if the student suffers ill treatment from arbitrary or capricious action by the school.....Where tests are concerned, 'risk of erroneous deprivation,' may be caused by tests that do not measure the content that they are supposed to measure. If the tests do not measure the content, then they lack validity. A second test concept is reliability, which requires that the measure must yield consistent results....." ( <i>American Public School Law</i> , Alexander & Alexander, Wadsworth-Cengage Learning, 7th Edition, 2009, p. 396-397) |
| The tests currently being given by the Georgia State Department of Education have been checked for validity and reliability.   |
| The courts have held that no due process rights are denied when tests are proven to be valid and reliable. (Debra P. v. Turlington)  |
| Students who do not pass all the required tests but have met all other graduation requirements may be eligible for a Certificate of Performance.....Students who have left school with a Certificate of Performance.....may return to attempt the graduation test(s) again, as often as necessary, to qualify for a high school diploma.   |

1. Based on the student testing facts and the case, *Debra P. v. Turlington*, how would you respond to Mr. MacArthur?

2. If Mr. MacArthur sues, what chances do you think he has of winning a “due process” law suit? Why?

3. Under the current circumstances, can Kelly ever earn a high school diploma? If so, how? If not, why not?

4. Define validity and reliability as they relate to standardized tests. Explain why they are essential elements in any defense of an administration of a required standardized test.





## Episode 3

**Directions:** Read section C. Response to Subpoena/Requests for Production of Records in *Local School Legal Issues Update 2011*, Thompson & Sweeny P.C. (p. 18-19). Then complete the pre-test.

| Response To Subpoena Pre-test  |  |  |
|--|--|--|
| Use T or F to identify the statements as True or False. If any part of a statement is false the entire statement is false. |  |  |
| 1.   |  | The school personnel who are on extended contracts and are working during the summer months are legally obligated to notify off contract employees if a subpoena arrives for the off contract employee at the school during the summer.  |
| 2.   |  | In order for the subpoena to be valid, it has to be served 24 hours prior to the time listed to appear on the subpoena.  |
| 3.   |  | The superintendent of a school system has the power to release a teacher from the requirements of a properly served subpoena if that teacher is teaching in a critical needs area like special education.  |
| 4.   |  | To eliminate confusion, a staff member with skill sets needed to be a good representative of the school in a court proceeding should be designated as the records custodian.   |
| 5.   |  | Due to the protocols in the discovery portion of a pending trial, schools are obligated to produce and take at least two copies of the records to court when honoring the request for records from a properly served subpoena, one for the defense and one for the state.  |
| 6.   |  | It is important to keep the envelope (date stamped when received) and all other documents served with the subpoena/request.  |
| 7.   |  | Because teachers are busy during the school day and we should do all that we can to protect instructional time, if a process server comes to the school and wants to serve a subpoena on a teacher during instructional time, the local school secretary should acknowledge service of the subpoena for the teacher and give the teacher the subpoena after the school day ends. |
| 8.   |  | It is optional that the school notify the parents of a student when that student's records are being subpoenaed.   |
| 9.   |  | It is important to train all the office staff on the importance of processing subpoena requests and have a back-up plan for retrieving, processing and/or distributing the mail when the person responsible for those duties is absent.  |
| 10.  |  | Because an attorney is a member of the Bar Association and therefore an officer of the court, they have the authority to demand and receive copies of school records on the same day they need them for a case they are handling.  |



## Episode 4

**Directions:** Complete the items related to copyright infringement of the math tutoring software.

1. Write a memo documenting your confrontation with the computer science teacher. Cite all the evidence you have uncovered regarding the high schools infringement of registered copyrighted software updates, the specific actions the computer science teacher was asked to perform or not perform, and cite the specific orders that she violated Saturday afternoon. Is she guilty of insubordination?

2. If she is guilty of insubordination, what kind of punishment would you administer to the computer science teacher for willfully refusing to obey a reasonable and lawful order?



## Episode 5

**Directions:** Answer the questions below and on the following pages about Mr. Welch's inappropriate school computer and Internet use. (Refer to O'Conner v. Ortega, textbook p. 276, as needed)

1. What would you say to Allen Wrench, the auto mechanics teacher when you confronted him?

2. How would you respond when the auto mechanics teacher states that your investigation was illegal because you violated his right to privacy in the workplace as protected by the Fourteenth Amendment of the U.S. Constitution?

3. Write a memo to Mr. Wrench outlining any charges against him, specific actions he must implement to prevent future violations, and any punishments to be administered?

4. Does Mr. Wrench's misbehavior rise to the level of termination? If so, why? If not, why not?

5. What procedures could you put in place to prevent future violations of the internet use policy by faculty and staff?

**Instructor's Note: The Value of Mirrored Site**

It is common and legal practice for school systems to incorporate "mirrored sites" when developing a computer network. Mirrored sites are depositories for documenting the transactions and activities from every computer connected to the network. Every email sent, every inquiry made, and everything downloaded through the network is stored on the mirrored site. Mirrored sites are invaluable because the school system is not required to seek a court order to access an individual employee's Internet use history.

## 7.2 Day Seven Episodes

### Learning Objectives

- Explain how the following concepts have been applied to the public school setting through the courts and case law:
  - Georgia Charter School Act of 1998
  - Charter School Commission Act of 2008
  - Georgia Professional Standards Commission's Code of Ethics
  - Georgia Code 16-11-62 (Recording in Private)
- Apply the following concepts to a public school setting:
  - Breach of confidentiality
  - Test security and integrity
  - School board member immunity from liability
  - Free and appropriate public education
  - Least restrictive environment

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 7. Complete the exercises on the following pages for Day Seven episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.





# *Episode 1*

## **Exercise A**

**Directions:** At the neighborhood HOA brunch, your fellow residents debate whether public schools can legally provide educational services to students enrolled in a private parochial school. Answer their questions below and on the following pages.

1. What is the Establishment Clause of the First Amendment to the U.S. Constitution?

2. Under what conditions, if any, can a public school provide educational services to students enrolled in a private parochial school (Lemon Test)?

3. Is *Aguilar v. Felton* (1985) the final word on providing public funds to educate private school students? If not, what case(s) have changed the law (*Agostini v. Felton*)?

4. The court system in the United States is based on the concept of “stare decisis” in which courts try to follow the legal precedents set by earlier court decisions. Why did the U.S. Supreme Court completely reverse its own opinion (precedent) rendered in *Aguilar v. Felton* in 1985 to the decision it rendered in *Agostini v. Felton* in 1997?

5. What do you tell Mrs. Bertha-better than-you when she states that, "Spending public taxpayer money to educate students in a private parochial school is a violation of the Establishment Clause of the First Amendment of the U.S. Constitution?"
6. Mr. Meek-and-mild asks, "How can the Catholic school start receiving Title I services from the public schools?" How would you respond?





## Episode 2

**Directions:** Use the resources listed below, and the table on the next page, to answer the questions that follow.

- [Charter School Act of 1998 as Amended 2005](#)
- [Charter Schools Commission Act 2008](#)
- [1983 Georgia State Constitution \(as amended through 1998\)](#)
- [Gwinnett County Sch. Dist. v. Cox, No. S10A1773 \(Ga. May 16, 2011\)](#)
- [Georgia Supreme Court strikes down Charter Schools Commission](#)
- [Funding Difference between the 1998 Charter Schools and the Commission Charter Schools](#)
- [After the was law struck down](#)

**Comparing the Charter Schools Act 1998 & Charter Schools Commission Act 2008**

|   | <b>Charter School Act 1998</b>  | <b>Charter Schools Commission Act 2008</b>  |
|---|---|---|
| <b>Intent of Legislation</b>              | To increase student achievement through academic and organizational innovation by encouraging local school systems to utilize the flexibility of a performance based contract called a charter. (O.C.G.A. 20-2-2061)  | There be established a state-level commission whose primary focus is the development and support of charter schools. (O.C.G.A. 20-2-2080)   |
| <b>Type of Schools Approved to Create</b> | Charter schools, charter conversion schools   | Commission charter schools (any K-12 school or variation)   |
| <b>Authority to Approve Creation</b>      | Local school board of education and then State School Board of Education  | Charter Schools Commission  |
| <b>Definition of Special Schools</b>      | "Special school" means a school whose creation is authorized pursuant to Article VIII, Section V, Paragraph VII of the Constitution. (O.C.G.A. 20-2-2061) Georgia State Constitution of 1983, to Article VIII, Section V, Paragraph VII. <b>Special schools.</b> (a) The General Assembly may provide by law for the creation of special schools in such areas as may require them and <b>may provide for the participation of local boards of education in the establishment of such schools</b> under such terms and conditions as it may provide; but no bonded indebtedness may be incurred nor a school tax levied for the support of special schools without the approval of a majority of the qualified voters voting thereon in each of the systems affected. Any special schools shall be operated in conformity with regulations of the State Board of Education pursuant to provisions of law. The state is authorized to expend funds for the support and maintenance of special schools in such amount and manner as may be provided by law. | "Special school" means a school whose creation is authorized pursuant to Article VIII, Section V, Paragraph VII of the Constitution. (O.C.G.A. 20-2-2061) Georgia State Constitution of 1983, to Article VIII, Section V, Paragraph VII. <b>Special schools.</b> (a) The General Assembly may provide by law for the creation of special schools in such areas as may require them and <b>may provide for the participation of local boards of education in the establishment of such schools</b> under such terms and conditions as it may provide; but no bonded indebtedness may be incurred nor a school tax levied for the support of special schools without the approval of a majority of the qualified voters voting thereon in each of the systems affected. Any special schools shall be operated in conformity with regulations of the State Board of Education pursuant to provisions of law. The state is authorized to expend funds for the support and maintenance of special schools in such amount and manner as may be provided by law. |
| <b>Funding</b>                            | (11) " <b>QBE formula earnings</b> " means funds earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161, including the portion of such funds that are calculated as the local five mill share in accordance with Code Section 20-2-164. (O.C.G.A. 20-2-2061)  | (1) <b>QBE formula earnings, QBE grants, and federal grants</b> .....(2) <b>A proportional share of state categorical grants, non-QBE state grants, state equalization grants.....</b> (3)(A) An amount determined by the commission for each student enrolled in such school equal to a <b>proportional share of local revenue from the local school system in which the student attending the commission charter school resides.....</b> (O.C.G.A. 20-2-2080)   |
| <b>Status</b>                             | Valid and enforceable   | Declared unconstitutional by the Georgia State Supreme Court, May 16, 2011  |

1. What is the Charter School Act of 1998 and why was it created?

2. What is the Charter Schools Commission Act 2008?

3. What are the major differences in the two pieces of legislation?

4. Why do you think the Georgia legislators felt that it needed the Charter Schools Commission Act, an additional piece of legislation to create charter schools, when they already had the Charter Schools Act of 1998?

5. Why did some local school boards sue the Georgia State Department of Georgia over the implementation of the Charter Schools Commission Act 2008?

6. What was the outcome of the law suit?



7. After the Georgia Supreme Court ruling in the *Gwinnett v. Cox* case, what happened to the charter schools that were created under the Charter Schools Act of 1998 and the Charter Schools Commission Act of 2008?

8. What are the steps someone would need to take if they wanted to create and open a charter school?



## Episode 3

**Directions:** Refer to the Code of Ethics for Educators to answer the following questions.

- [Georgia Professional Standards Commission Code of Ethics for Educators](#) (p. 4-5)
  - Standard 7, item 3: Confidential Information
  - Standard 11: Violation of Testing Procedures

1. Is the elementary school teacher violating the Code of Ethics for Educators? If so, what standard(s)?

2. What specific unethical behavior (if any) is the elementary school teacher violating by making copies of the CRCT test?

3. What are the requirements as outlined by the Code of Ethics for Educators for someone to report incidents of unethical behavior?

4. Should Rusty Nail get his superintendent and school board attorney involved in reporting the unethical behavior?

5. What procedures could a school system implement to insure reporting of unethical behavior?



## Episode 4

**Directions:** Using *Wood v. Strickland* (1975), list the points you will share with the school board member regarding student due process rights. Include the rights of the alleged gang members and the personal liability of school board members that knowingly deny a student his or her constitutional rights.



## Episode 5

**Directions:** The first part of the program for the Georgia Secondary School Principal's Association meeting will be a discussion of the Stefan Ferrari case. Use the following resources to answer the discussion questions that follow.

[Stefan Ferrari case](#)

[Georgia Code 16-11-62 \(Recording in Private\)](#)

[Georgia Code 16-11-64 \(Single Person Consent\)](#)

[Audio Recording Laws in the U.S.](#)

[Caught on Tape for Better or Worse](#)

1. Is it legal to tape record a teacher in a Georgia public school?
2. What are the Georgia laws on tape recording conversations?
3. Are public school classrooms private or public places?





## *Episode 6*

**Directions:** Develop talking points that summarize the U.S. Supreme Courts' decision in *Forest Grove School District v. T.A.* (Refer to textbook p. 263) Include your personal prediction regarding the future financial impact of the Forest Grove case on public school budgets.

## 8.2 Day Eight Episodes

### Learning Objectives

- Apply the following concepts to the public school setting:
  - Due Process Clause of the Fourteenth Amendment
  - Transgender sexual orientation
  - Student-to-student sexual harassment
  - Child custody and visitation
  - Moral turpitude
  - Nolo contendere
  - Age discrimination
- Apply the following concepts as defined by the Professional Standards Commission's Code of Ethics for Educators:
  - Honesty
  - Remunerative conduct
  - Confidentiality
  - Abandonment of contract
  - Professional conduct

### Directions

View the eLearning portion of topics 1 and 2 in Lesson 8. Complete the exercises on the following pages for Day Eight episodes 1 through 6. Then meet with your principal or supervisor to review the results of your work.





3. What steps can you take to keep the student from being harassed by teachers and staff?
  
  
  
  
  
  
  
  
  
  
4. If you enroll the student and take no steps to insure protection for the student from harassment, will you be guilty of “deliberate indifference?”
  
  
  
  
  
  
  
  
  
  
5. Does an act of “deliberate indifference” on the part of the principal increase the principal’s liability if the student is harassed?
  
  
  
  
  
  
  
  
  
  
6. What U.S. Constitutional Amendments and federal statutes protect transgender students from discrimination?

7. Will you allow the student to take physical education in a female class? Explain why or why not.

8. Will you allow the student to use the female restroom if he/she wants to? Explain why or why not.

9. If the student enrolls, what will you do to rectify your assistant principal's apparent dislike of transgender students? What do you think they need to know regarding the treatment of transgender students?



## Episode 2

### Exercise A

**Directions:** Your presentation to the Early Childhood Child-Care Program is called “Georgia Custody and Visitation Issues.” To prepare for the presentation, use the resources listed below to answer the questions that follow.

- [Basics of Child Custody Laws in Georgia](#)
- [Georgia Custody and Visitation](#)

1. What is the definition of “child custody”?

2. When is custody awarded?

3. Define following types of parents listed in the table below.

| Types of Parents        | Definition |
|-------------------------|------------|
| Natural married parents |            |
| Unmarried parents       |            |
| Adoptive parents        |            |
| Separated parents       |            |
| Divorced parents        |            |
| Step parent             |            |
| Foster parent(s)        |            |

4. What is the legal standard used by the state of Georgia to award custody?

5. How does the state of Georgia view the value of parents when it comes to custody?

6. In Georgia, what is “custody election?”

7. How old must a child be in Georgia before they can legally qualify for “custody election?”

8. What are the two forms of custody that Georgia recognizes?

9. What is legal custody?

10. What is physical custody?

11. What are the different types of custody awarded in Georgia?

12. What is a parenting plan and what does it contain?

13. When does custody of a child end?

14. What is "visitation?"

15. How is visitation limited?

16. What is “supervised visitation?”

17. Who can be awarded visitation?



18. When can visitation be denied?

19. How can you as a school leader insure that the decrees found in custody orders are enforced?

20. A 13 year old ninth grade student, who lives with his divorced custodial mother, comes to you and asks you how they can legally go live with their father. What advice do you give them?

21. When, if ever, should a principal request to view a “parenting plan?”

## Exercise B

**Directions:** Because there are many different types of parents, each with their own corresponding levels of authority regarding the educational matters of the child, list three key positions of the staff and/or faculty members at the high school who would benefit the most by having the information contained in the table on page 11. Include a justification for each of your selections.



## Episode 3

**Directions:** The questions below are related to Mr. Ruggero's situation. Answer the questions, referring to the [Georgia Code of Ethics for Educators](#) as needed.

1. Chuck Ruggero entered a plea of "nolo contendere" (no contest) because he sincerely believed that with the exception of a small temporary lack of judgment that he had done nothing seriously wrong. Is Chuck Ruggero guilty of anything and if so, what?
2. Has Chuck Ruggero violated any of the standards found in the Code of Ethics for Educators? If so, what standards and what specific sections of the standards did he violate?
3. Do Chuck Ruggero's actions rise to the level of a violation of moral turpitude?

4. It has been 72 days since the incident occurred. Is Chuck Ruggero guilty of the unethical behavior of failing to comply with Standard 9 item number 2 or 3?

5. What actions will you take against Chuck Ruggero?

6. What actions are required of you by the Code of Ethics for Educators, specifically those found in Standard 9?

7. Who else should you notify regarding the incident?



## Episode 4

**Directions:** Answer the questions below regarding Patty O'Donnell and her bows and ribbons business. Refer to the [Georgia Code of Ethics for Educators](#) as needed.

1. Has Patty O'Donnell violated any of the standards found in the Code of Ethics for Educators? If so, what standard(s) and what specific section(s) of the standard(s) did she violate?
  
  
  
  
  
  
  
  
  
  
2. What actions will you take against Patty O'Donnell?
  
  
  
  
  
  
  
  
  
  
3. What actions are required of you by the Code of Ethics for Educators, specifically those found in Standard 9?
  
  
  
  
  
  
  
  
  
  
4. Who else should you notify regarding the incident?



## Episode 5

### Exercise A

**Directions:** Listed below and on the following pages are summaries of some of the stories of alleged Code of Ethics violations shared during your debrief and planning meeting. You and the assistant principals play a game to see who can identify the standards that were violated, if any. For each summary, determine if a violation of the Georgia Code of Ethics for Educators occurred. If so, list the specific standard(s) and specific section(s) that were violated. Refer to the [Georgia Code of Ethics for Educators](#) as needed

1. Two teachers were granted professional leave to go to Savannah and attend a State Department of Education sponsored professional development meeting. While driving in Savannah, the teachers were pulled over by the Georgia State Troopers and the driver was issued a D.U.I. ticket and spent a night in jail to sober up. The other teacher was taken to the motel to sober up. Neither teacher reported the incident to anyone. Four months have passed.









## Episode 6

### Exercise A

**Directions:** Use the resources listed below, and the excerpts from Dr. Hammond's recording, to answer the questions on the next page.

- General Dynamics Land Systems, Inc., et al. v. Cline (2003)
- Smith v. City of Jackson, Mississippi (2005)
- Textbook p. 220, 369-370

#### Excerpts from Job Interview Transcript

Dr. Hammond: *Do you mind if I record the interview?*

AP 1: *No, we don't mind. It's not like we'll be discussing national security secrets.* [laughter]

AP 2: *Do you need an electrical outlet for your recorder?*

Dr. H. *No, it's battery operated.*

[Later in the interview]

AP 2: *Dr. Hammond, as a former middle school principal, you do realize that the job requires a great deal of after school time and weekend duty.*

Dr.H: *I fully understand the time commitment. I'm more than willing to commit to giving the position all the time required to provide the quality education the middle school students deserve.*

AP 1: *No disrespect intended, Dr. Hammond, but based on your age, do you really think you can keep up with middle school students?*

Dr.H: *I really don't believe that age should be considered as a factor of my leadership abilities.*

AP 2: *As a heads up Dr. Hammond, we need to warn you that if you do get the job there'll be teachers on the faculty that will think that you're too old for the job.*

[Near the end of the interview]

AP 1: *Dr. Hammond, we want to be up front with you. We know that you are under consideration for some leadership positions in other school systems and you'll probably need to be making a decision in the near future. So, in fairness to you, as far as this position is concerned, the school system is probably looking for a younger individual who has the energy needed to keep up with middle school children, can grow with the school system, and make a long range commitment to the community.*

AP 2: *We're sorry for any inconvenience we've caused you. It's been great getting to know you, but based on your age we think you're better suited for a less demanding position...like teaching at the college level.*

1. Based on the transcript, the court cases, and the information found in the textbook, do you think the school system has a chance of winning the law suit? Explain why, or why not?

2. What policies, procedures, and/or practices would you recommend to the superintendent to prevent this type of situation from occurring in the future?

3. If you were the superintendent, how would you deal with the two assistant principals who conducted the interview?

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