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Legal aspects of student teaching in North Carolina

Ellenberger, Timothy Roy, Ed.D.

The University of North Carolina at Greensboro, 1989

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LEGAL ASPECTS OF
STUDENT TEACHING IN
NORTH CAROLINA

by

Timothy R. Ellenberger

A Dissertation Submitted to
the Faculty of the Graduate School at
The University of North Carolina at Greensboro
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Doctor of Education

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The purpose of this study was to analyze state statutes and judicial decisions as they impact upon student teaching in the public schools of North Carolina. The second purpose of this study was to define guidelines for student teaching for the teacher education programs throughout the universities of the University of North Carolina system.

Based upon state statutes, case laws, official opinion, and other data, the following conclusions were drawn:

1. Local school boards have the authority to permit student teaching.
2. Student teachers may serve as teachers assistants.
3. Student teachers in North Carolina may serve as a substitute teacher.
4. Student teachers are not employees of the local school boards unless they assume the duties of a teacher assistant or a substitute.
5. Student teachers are not financially compensated for student teaching unless assigned additional duties such as serving as teacher assistant, substitute, or coach.
6. Student teachers may collect workers' compensation.
7. Student teachers are entitled to due process pursuant to the Fifth and the Fourteenth Amendment of the United States Constitution.
8. Student teachers should have reasonable and periodic supervision but not necessarily constant and direct supervision.

9. Student teachers in North Carolina may discipline students but may not administer corporal punishment.

10. Student teachers are responsible for their own negligent acts; however local school boards may indemnify student teachers for their legal liability.

11. Student teachers in North Carolina may have access to student records.

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CHAPTER I

INTRODUCTION

Since the turn of the century teachers throughout America have completed preservice work in public school classrooms in order to obtain a teaching certificate. Student teaching is now required for initial teacher certification, with some student teachers spending as much as a year in student teaching to benefit from the extended experiences and contact with the public schools that it affords. The importance of student teaching was expressed by one educator who wrote: "Student teaching is probably the most vital, critical, and challenging period in the preservice preparation of a teacher."¹

The practice of student teaching can be traced even to the colonial period, when there were some embryonic guided practices for those preparing to teach. For instance, there was a monitor system; as early as 1772 the following notice appeared which tied student teaching into apprenticeship:

This indenture (apprenticeship) witnesseth that John Campbell. . hath put himself. . . apprentice to George Brownwell School master to learn the Art, Trade, or Mystery of teaching. . . and the said George Brownwell

¹Richard G. Salmon, "Student Teaching Handbook," Virginia Polytechnic Institute and State University (Blacksburg, VA: VPI and SU, 1976), 29.

doth hereby covenant and promise to teach or instruct. . . the said apprentice in art, trade, or calling a schoolmaster by the measure he or his wife may or can.²

During the period of 1779 to 1865, "whereas (much) was made by the public of religious, political and moral witness worthiness of their teachers, the public seldom had very high expectation concerning professional training of teachers."³ Teachers had no professional organization at this time, and prospective teachers spent much time in actual student teaching.⁴

In 1823 a student teacher attending the Reverend Samuel Hall's School in Boston would have worked with some of the children admitted for demonstration and practice purposes. This school was the first private normal school in America.⁵ In 1839 the first public normal school opened at Lexington, Massachusetts. The work in student teaching there is described by Margaret Walker, who says, "Cyrus Pierce's diary in 1839 - 1841 might as well be a diary written

²Ellwood Cubberly, Readings in History of Education (New York: Houghton, Mifflin Company, 1920), 386.

³Freeman Butts and Laurence Cremin, A History of Education in American Culture (New York: Holt, Reinhart and Winston, Inc., 1953), 133.

⁴Arthur P. Mead, Supervised Student Teaching (Richmond: Johnson Publishing Company, 1930), 17.

⁵The Association for Student Teaching (Dubuque, Iowa: Wm. C. Brown Co. Inc., 1962), 4.

by a supervisor of student teaching in 1955."⁶

In 1869 there were only thirteen state normal schools in the country. The Oswego Normal School required twenty weeks of practice teaching for graduation.⁷ At that time there were only twelve other state normal schools in the country. This was the largest amount of time required.⁸ Emphasis was placed on good teaching techniques, planning and preparing work well, mastering subject matter fully, and anticipating difficulties.⁹

Observation and student teaching were deemed necessary by all state normal schools established prior to the Civil War. As the war broke out, the development of training schools was interrupted.¹⁰ The problems in student teaching during the war period were concerned with adequate supervision and the emphasis on teaching methods rather than on pupil inquiry and

⁶Association for Student Teaching, Functions of Laboratory Schools in Teacher Education, Thirty-fourth Yearbook (Cedar Falls, Iowa: The Association, 1955), 161.

⁷American Association of Teacher Colleges, Yearbook (Oneonta, New York: The Association, 1927), 54.

⁸Ibid., 55.

⁹Edgar Wesley, NEA :The First Hundred Years (New York: Harper and Brothers, 1957), 64-65.

¹⁰E.I.F. Williams, The Actual and Potential Use of Laboratory Schools (New York: Teachers College, Columbia University 1942), 11.

experience.¹¹ Between 1865 and 1918, the training school directors and the instructors of the student teachers brought into the classroom discussion about the new states being settled, the wealth of the nation, the increased number of schools, and longer school terms. Little stress was placed on teacher certification at this time because the movement for teacher certification developed slowly.¹²

Student teaching in North Carolina came about through the generosity of the General Education Board of New York, which in 1926 granted to the School of Education at The University of North Carolina an appropriation of \$75,000 for a five-year period to improve training for prospective high school teachers. As a result of this funding, The University of North Carolina entered into an arrangement with the Chapel Hill Board of Education to make use of the local public schools as a training center for the School of Education. Under this agreement the departments of English, mathematics, French, Latin, history and natural science at Chapel Hill High School were to be used for purposes of observation, demonstration, and directed teaching. Each of the practicing student teachers observed and taught no less

¹¹ Ibid., 8.

¹² Ibid., 9-10.

than thirty class lessons in order to obtain credit for their work.¹³

This has continued for over 60 years. In the most recent academic school year, 1986-87, 5,075 students completed undergraduate student teaching in the fifteen universities of the University of North Carolina system.¹⁴ For the majority of student teachers, student teaching is a positive experience. However they often find themselves in precarious situations due to their lack of knowledge of legal rights, duties, and responsibilities.

Purpose of the Study

One purpose of this study was to analyze state statutes and judicial decisions as they impact upon student teaching in the public schools of North Carolina. A second purpose of this study was to define and offer guidelines for student teachers in the fifteen universities in the University of North Carolina system. Results of this study can provide a source of information which teacher educators, public school administrators, cooperating classroom teachers, and students of education can utilize in making sound decisions.

With the assistance of Laura Mesabov and Robert Phay, attorneys for the Institute of Government, deans of the Schools of Education,

¹³ University of North Carolina :The Catalogue 1927-28. Announcements for 1928-29 (Chapel Hill: The University of North Carolina , 1927), 61

¹⁴Gary T. Barnes, Charles C. Bass, and Mary E. Wakeford, Teacher Supply and Demand in North Carolina Public Schools, 1986-1995. (Chapel Hill: University of North Carolina, 1986), 29.

and directors of student teaching in the fifteen universities of the University of North Carolina system, the writer developed and formed the following questions:

1. Do local school boards in North Carolina have the authority to permit student teaching in the public schools?
2. Do local school boards in North Carolina have the authority to place student teachers in teacher assistants position?
3. Do local school boards in North Carolina have the authority to allow student teachers to serve as substitute teachers in the public schools in North Carolina?
4. Do local school boards in North Carolina consider student teachers to be employees while doing their student teaching?
5. Do local school boards in North Carolina have the authority to grant financial compensation to student teachers?
6. Are student teachers in North Carolina eligible to collect worker's compensation while student teaching?
7. Are student teachers in North Carolina afforded due process procedures if they are dismissed from their student teaching duties?
8. Are student teachers in North Carolina legally able to teach without having constant and direct supervision?
9. Are student teachers in North Carolina legally allowed to discipline pupils ?

10. Are student teachers in North Carolina liable for injuries sustained by pupils who are under their supervision?

11. Are student teachers in North Carolina allowed to have access to pupil records?

Methodology

The basic methodology utilized for this study was historical research in which the writer attempted to review and analyze the available references concerning the legal aspects of student teaching in North Carolina.

In order to determine whether a need existed for such research, a search was made of Dissertation Abstracts for related topics. A computer search from the Educational Resource Information Center (ERIC) was also completed to determine related literature. Journal articles related to the topic were located through use of such sources as Reader's Guide to Periodical Literature, Education Index, Index to Legal Periodicals, and the Legal Resource Index. General research summaries were found in the Encyclopedia of Educational Research.

In addition to these published sources, more pertinent information was sought from: Applicable Case laws, statutes of most of the fifty states with emphasis on North Carolina, the North Carolina State Department of Public Instruction and the State Superintendent, and the University of North Carolina system.

In order to locate cases relative to the topic, the following

sources were utilized:

- (1) The American Digest System: Short digests of cases from 1958 to the present.
- (2) American Jurisprudence: This source is an encyclopedia in style and contains leading court decisions by topic.
- (3) American Law Reports : A digest based on 500 carefully chosen state and lower federal court decisions.
- (4) National Reporter System : Briefs all of the significant points of all cases from all courts of record.

After gathering all of the data, the writer analyzed the information and addressed it to the research questions formulated. All of the cases were reviewed and placed in categories according to questions to be answered and issues noted from the review of the literature.

Definitions of Terms

Board of education. An agency of the state for government and management of a school district.

Certification . The act of designating persons whom boards of education may legally employ as teachers and other professional education personnel.

Certified teacher. A person engaged in teaching that has a certificate designating the person to be qualified and being a person that the board of education may legally employ.

Common law. Those principles and rules of action relative to the government and security of persons and property which derive their authority solely from usages and customs, or from the judgments of the courts recognizing and enforcing such usages and customs, particularly the ancient unwritten law of England.

Due process. The right of a person to be present when judgement is pronounced upon the question of his life, liberty or property; and the right of the person to be heard by testimony or otherwise.

Equal protection of the laws. The equal protection of the laws of a state is extended to persons within its jurisdiction, within the meaning of the constitutional requirement, when its courts are open to them on the same conditions as to others, when they are liable to no other or greater burdens and charges than such as are laid upon others; and when no different or greater punishment is enforced against them for a violation of the laws.

Illegal. Not authorized by law; illicit; unlawful; contrary to law

Implied authority. Used in law as contrasted with "express"; i.e., whereby the intention in regard to the subject matter is not manifested by explicit and direct words, but is gathered by implications or necessary deduction from the circumstances, the general language, or the conduct of the parties.

In loco parentis. In the place of a parent; instead of a parent;

charged factitiously, with a parent's rights, duties, and responsibilities.

Indemnify. To save harmless; to secure against loss or damage; to give security for the reimbursement of a person in case of an anticipated loss falling upon him. To make good; to compensate; to make reimbursement to one of a loss already incurred by him.

Jurisdiction. The authority by which courts and judicial offices take cognizance of the decided cases.

Legal. Conforming to the law; according to law; required or permitted by law; not forbidden or discountenanced by law.

Liable. Bound or obliged by law or equity; responsible; chargeable; answerable; compellable to make satisfaction, compensation, or restitution.

Pupil. One who attends an elementary/secondary school under the care of an instructor, tutor, or teacher.

Save harmless. Situation wherein a board of education pays the judgement from claims arising out of an employee's negligence committed within the course and scope of his/her employment.

School district. A public and quasi municipal corporation, organized by legislative authority or direction, comprising a defined territory, for the erection, maintenance, government, and support of the public schools within its territory in accordance with and in subordination to the general schools of the state.

Status. Standing, state or condition, the rights, duties, capacities and incapacities which determine a person to a given class.

Student teaching. Observation, participation, and teaching done by a student preparing for teaching under the direction of a cooperating teacher as part of the pre-service program offered by a teacher education institute.

Sovereign immunity. Condition whereby a government cannot be held liable for tortious acts committed by its officers or employees.

Substitute teacher. Person hired on a daily basis or otherwise non-yearly basis whose teaching duties are temporary in nature.

Tort. A private or civil wrong independent of contract.

Undergraduate student teacher. A college/university student who is actively engaged in the activity defined as student teaching.

Workers' compensation. Methods and means created by state statutes for giving protection and security to workers and their dependents against injury and death occurring in the course of employment.

Limitations of the Paper

This paper was confined to legal issues affecting undergraduate student teachers in the fifteen University of North Carolina schools. This limitation would foreclose any study of the other twenty-seven colleges and universities in the state that have teacher preparation

programs.

The University of North Carolina system was chosen because of the common factors that unite these institutions and because of the diverse geographic locations of its campuses. Data were collected in 1987 and were deemed current at that time .

This study does not attempt to assess the quality of any one student teaching program or of all fifteen programs. There is no attempt to describe the specific student teaching programs or compare the instructional components of one student teaching program with another. The study does not look at effectiveness of student teaching in general nor at how student teaching programs affect any specific school system or individual school.

Design of the Study

This historical study is limited to questions which address the legal aspects of student teaching in North Carolina. This study will make use of selected court cases and general statutory law having to do with student teaching . The first chapter details eleven questions to be addressed and to provide direction for the remainder of the study.

Chapter II contains a review of literature related to the history of student teaching and legal considerations. This review covers the period from the early nineteenth century to 1987.

Chapter III is an analysis of the statutes of the fifty states and

the District of Columbia concerning student teaching. The statutes are divided into two major headings: Expressed legislation and Implied legislation.

Chapter IV contains, in narrative form, information on the legal aspect of student teaching. All relevant state statutes are presented and juxtaposed with appropriate case law. All relevant case laws were analyzed in order to provide an understanding of the legal aspect of student teaching. Facts of the cases, decisions of the courts, and discussions are presented for each of the major headings.

Chapter V contains a summary of information obtained from the review of the literature and from the analysis of statutory law and case law. The questions posed in the introductory chapter are reviewed and answered. The conclusions synthesize the most important legal points of student teaching. The writer presents recommendations that can help school administrators, university officials, teachers, and student teachers to understand better the legal complexities of student teaching. The recommendations may also serve as a guide in developing policy that addresses the legal aspects of student teaching.

Chapter II

REVIEW OF RELATED LITERATURE

In the first thirty years of the twentieth century, most of the undergraduate student teaching that took place was performed primarily in laboratory schools that were closely related to teacher education institutions. The rapid increase in the demand for teachers in the 1940's, however, resulted in a more structured program of student teaching.

Cecil Allen conducted his first national study of the legal issues involved with student teaching in the late 1930's.¹⁵ He found very few states which specifically addressed the statutory status of student teachers by specific statutes.¹⁶ Allen determined that student teaching under proper supervision was not in conflict with existing case law or statutes.¹⁷

During this same period, Arthur Mead wrote about student

¹⁵Cecil H. Allen, Legal Principles Governing Practice Teaching in State Teachers Colleges, Normal Schools, and Public Schools (Nashville: George Peabody College for Teachers, 1937), 1.

¹⁶Ibid., 31.

¹⁷Ibid., 137-139.

teaching.¹⁸ His major concerns were case law, state statutes and administrative regulations related to the teacher education institutes that were responsible for placing the student teacher in the public schools.¹⁹ In 1945, William Brink conducted a study of the colleges and universities that placed their student teachers in off-campus public schools.²⁰ He concluded that while a few student teacher placements involved some type of formal contract, the vast majority of the school systems and institutions operated under what is known as a gentleman's agreement between the institution and the school system.²¹

Newton Edwards concluded in a 1955 case that:

Where a board of education is vested by statute with broad powers and discretion in the conduct and management of the public schools, it may as an exercise of its authority to determine the course of study, maintain a model school for the use of teacher-college students. Students doing practice teaching in the public schools are not required to have a teacher's certificate. Employment of practice teachers is merely a variation in the mode of instruction, a matter which falls wholly within the discretion of the school authorities. Control over the practice-school facilities for teacher college students must be exercised exclusively by the school board. The law

¹⁸Arthur Raymond Mead, Supervised Student Teaching (Richmond: Johnson Publishing Co., 1930), 681-783.

¹⁹Mead, 682.

²⁰William G. Brink, "The Administration of Student Teaching in Universities which used Public Schools," Educational Administration and Supervision, (October 1949), 396.

²¹Ibid., 396.

vests school boards with authority and discretion in the management and control of the public schools, and they may not divest themselves of this authority or delegate it to others.²²

Mead later noted that as the certification of teachers moved from a local to a state concern, various state departments of education gained the needed power to prescribe the minimum certification requirement, with student teaching become a prerequisite for certification requirements. Specific or implied legislation enabled the state departments of education to require student teaching.²³ Sam Wiggins, in a answer to the question of legal status of student teaching, wrote:

... legally the responsibility of the school for custody of pupils must remain with the regular classroom teacher, since you (the student teacher) are not under contract with a school board.²⁴

In 1959, David Barkley studied three aspects of student teaching: (a) student teaching provisions as expressed in statutes; (b) state regulations concerning teacher certification; and (c) judicial and administrative interpretations. Barkley's study showed that thirty-one states had specific legislation pertaining to student teaching; six states

²²Newton Edwards, The Courts and the Public Schools (Chicago: University of Chicago Press, 1955), 157-158.

²³ Arthur Raymond Mead, "Legal Status of Laboratory Schools and Teacher Education Laboratory Practices," The Journal of Teacher Education, December 1957, 359.

²⁴Sam Wiggins, The Student Teacher in Action (Boston: Allyn and Bacon, 1957), 57.

had implied authority for student teaching; and thirteen states had neither expressed nor implied provisions for student teaching experiences.²⁵

In 1960, Foreman and Tieszen raised several questions relating to the problems involved in placing student teachers in public classrooms across the United States. Their concerns focused on the following questions: (1) student teachers and tort liability; (2) student teachers' legal authority to administer discipline; (3) student teachers who exceed their delegated authority; (4) student teachers as substitute teachers; (5) responsibilities which may be delegated to student teachers; and (6) student teachers' rights to be certified after completing student teaching.²⁶ While Tieszen and Foreman identified these areas of concern, they offered no answers.²⁷

A second study by the same authors in 1961, investigated the issue of whether a student could teach even temporarily without full certification. They expressed the opinion that student teachers are trapped in a legal dilemma; that is, no one is allowed to teach without a valid teaching certificate, which of course student teachers do not possess, while at the same time, student teaching is a prerequisite for

²⁵David Stanford Barkley, "The Legal Status of Student Teaching" (Ed. D. diss., Duke University, 1959), 10.

²⁶D.W. Tieszen and Charles Foreman, "Legal Responsibilities of the Student Teacher" The Journal of Teacher Education, June 1961, 216.

²⁷Ibid., 442.

a teaching certificate.²⁸

Nolte and Linn in their 1964 book, School Law for Teachers, included a chapter entitled "The Student Teacher in Legal Theory." The authors examined the authority which allowed practice teaching, the issue of student teacher certification, the liability of student teachers in tort actions, current statutory provisions for student teaching and the legal rights of student teachers.²⁹

Stanley Johnson compiled a related study in 1964, and recommended that legislation should be enacted with respect to the following areas:

1. Cooperative agreements and financial arrangements between teacher preparing institutions and public schools for the establishment and maintenance of off-campus laboratory schools.
2. Liability insurance for all those taking part in the student teaching program (teacher preparing institution, public school, and student teacher).
3. Workers' compensation insurance laws revised to include

²⁸ D.W. Tieszen and Charles Foreman, "Student Teaching: Some Legal Considerations," The Journal of Teacher Education, June 1961, 216.

²⁹ N. Chester Nolte and John P. Linn, School Law for Teachers (Danville, Ill.: Interstate Printers and Publishers, 1966), 306.

student teachers.³⁰

In his book entitled, Legal Aspects of Student Teaching, 1966, Fred Swalls examined the attorney generals' opinion, statues, and cases related to student teaching. These encompassed ten states.

Swalls said:

In the matter of liability of the student teacher for pupil injury, the law of the ten states studied varied. Three of the states with save-harmless laws protected student-teachers. It appeared that in the other seven states the student teacher could be held personally liable for injury.³¹

In 1965, Donald Farmer surveyed state certification officers, teacher-educators, and superintendents of public school districts that accommodated student teaching programs. From the opinions expressed by the respondents to the survey, Farmer concluded that the respondents supported the following:

1. Statutes or regulations need to be established which will make special funds available for student teaching.
2. Supervising teachers should be paid for the services they perform and this payment should be made directly to the supervising teacher.
3. Student teachers should not be paid for the services they perform.

³⁰Stanley L. Johnston, "The Legal Aspects of Student Teaching," (Ed. D. diss., University of North Dakota, 1964), 121-122.

³¹Fred Swalls, Legal Aspects of Student Teaching (Danville, Ill.: Interstate Printers and Publishers, 1966), 32.

4. The supervising teacher need not always be physically present in the classroom while the student teacher is teaching.
5. Student teachers should occasionally assume full responsibility for activities outside the classroom; e.g., hall duty, lunchroom supervision, playground supervision.
6. The student teacher should have the right to exercise disciplinary control over students.
7. Principals, consultants, and other public school personnel should assume certain supervisory responsibilities in a student teaching program.
8. Statutes or regulations need to be established which will protect the student teacher from liability suits involving pupil injury.
9. Student teachers should be protected by the public school's workers' compensation plan.
10. Special or preliminary certificates are not necessary for student teaching.
11. Student teaching should be required before an individual may receive a regular teaching certificate.
12. There should be special qualifications for supervising teachers.
13. Teacher-preparing institutions should be required to enter into a written agreement with cooperating schools concerning student teaching programs.

14. Cooperating schools should not have the right to deny a college supervisor the opportunity to observe and supervise student teachers who have been assigned to the district involved.

15. The cooperating school district should have the right to exercise selectivity in accepting students recommended for student teaching by the teacher preparing institution.³²

In 1965 Franklin Jones in his dissertation, Legal Aspects of Student Teaching in the United States, investigated certain legal aspects in placing student teachers in the public school system. Jones concluded and recommended that legislators in those states which lack specific statutes address the following issues:

(1) Use of public schools for student teachers; (2) control of pupil conduct; (3) use of public school pupils as subjects for student teaching whenever such pupils are compelled to attend school by compulsory attendance laws; (4) liability of injuries to pupils; (5) liability of injuries to student teachers. (6) Selection, certification, and definition of the role of cooperating teacher; (7) certification of student teachers; (8) compensation of cooperating teachers; (9) contractual agreement for student teaching; (10) social requirements and qualifications for student teachers; (11) Use of student teachers as substitutes for the regular teacher; (12) assignment of student teacher to out-of-state local school

³²Donald E. Farmer, "The Legal Status of Student Teaching in Forty Selected States," (Ed. D. diss., University of Kansas, 1965), 79-80.

districts.³³

Jones additionally concluded that further investigation in this field was necessary due to "the ever-changing status of student teaching."³⁴

Louis Karakas investigated the legal status of student teachers in North Dakota. He reached the following results and conclusions:

1. The legal status of student teachers in North Dakota has not been defined by statute.
2. Student teachers are not legally permitted to teach in the public schools.
3. Student teachers are not covered by liability insurance which public school districts may purchase, and they would be liable for acts of negligence in the same manner as any other person.
4. Student teachers do not have legal authority to administer corporal punishment.
5. Student teachers have the responsibility of using information about pupils in an ethical and confidential manner.
6. Student teachers may not be used legally as substitute teachers.
7. Student teachers are not covered by the workmen's compensation laws of North Dakota.

³³Franklin Jones, "Legal Aspects of Student Teaching in the United States," (Ed. D. diss., University of Mississippi, 1967), 132-133.

³⁴Ibid., 132-133.

8. There are responsibilities a certified teacher cannot legally delegate to a student teacher.

9. North Dakota does not have a "save-harmless" statute.

10. It is recommended that the state legislature enact legislation defining the legal status of student teachers in North Dakota.

This legislation should a) permit student teachers to teach in any of the public schools of the state; b) state that student teachers are covered by liability insurance carried by the school district in which they are teaching; c) state that student teachers are covered by workmen's compensation laws; d) permit student teachers to administer corporal punishment; e) permit the use of student teachers as unpaid substitute teachers; f) provide for preliminary certification of student teachers. g) Provide a "save-harmless" clause that would protect both teachers and student teachers.

11. In the absence of legislation, the institutions of higher learning should agree to provide legal counsel and medical care for student teachers if the need should arise.³⁵

While Farmer, Jones and Karakas made specific recommendations, Bobby Anderson wrote:

The problem is to determine how to provide the field experience necessary for potential teachers and at the same time provide the legal protection they deserve while

³⁵Louis John Karakas, "The Legal Status of Student Teachers in North Dakota, (Ed. D. diss., University of North Dakota, 1969), 3833.

working in the particular situation.³⁶

Longstreth and Taylor addressed this problem:

A valid student-teaching experience is, in fact, a teaching experience, and this should be so reflected in the law. Although many states have legalized the sale of alcoholic beverages and some have even legalized gambling, few have seen fit to legalize student teaching. This is a tragic situation: the student teacher, the supervising teacher, the school district, and the teacher education institution are entitled to status and protection under the law.³⁷

There has been much written on how Colorado solved many of the legal problems with student teachers through the enactment of the Cooperative Teacher Education Act of 1973.³⁸ Otto Ruff, reflecting on the Cooperative Teacher Education Act and the implementation of the legislation in Colorado, wrote :

Important as it is, the laws in most states utterly failed to clarify the status of the student teacher. Teacher education institutions have continued to assign observers, assistants, student teachers, and interns to schools for experiences with children in a learning situation. School officials have accepted such helpers and learners in the school generally as a professional responsibility, but not infrequently as a strategy to obtain considerable help at little or not cost to the school. The student teacher has generally been regarded as a "learner" but his status in a

³⁶Bobby D. Anderson, "Legal Status of Student Teachers as a Specific Problem in School Administration, in Critical Issues in School Law (Topeka: The National Organization on Legal Problems of Education, 1970), 189.

³⁷Larry E. Longstreth and Bob L. Taylor, "Student Teaching: A Legal Vacuum," The Journal of Teacher Education, Spring 1971, 48-50.

³⁸Colorado Revised Statutes, 22-62-101 through 105 (1973).

school district was generally not defined in law. ³⁹

Lowell Horton's investigation was concerned with policy formations regarding the role of the student teacher and the college or university during a teacher strike. Horton offered some of the following guidelines which could provide assistance for student teachers and college or university officials during a teacher strike.

1. Decisions should be made before the heat and passion of a strike. Guidelines formulated and accepted before the fact are more likely to be successful for all.
2. Safeguards are constitutional rights of student teachers and should be build into policy. The student teacher's rights must be given priority at each level of decision making. This is wise from a legal as well as a humane viewpoint.
3. In no case should a student teacher be asked to serve as a substitute teacher in order to break a strike. Conversely, the student teacher should not be asked to serve on picket lines or to support the strike in any way if this is contrary to his or her beliefs.
4. While some involvement in a strike may be worthwhile for prospective teachers, reasonable limits must be established before the beginning of student teaching experience.
5. The student teacher must not have his future jeopardized in

³⁹Otto G. Ruff, "Implementation of the Cooperative Teacher Education Act of 1973" (Unpublished paper, Colorado Department of Education, 1973), 1.

terms of evaluations for engagement or refusal to engage in teacher strike activity.

6. The college or university in its teacher education program needs to help prospective teachers make intelligent decisions in the crucial area of teacher strikes and sanctions. The prospective teacher should be made aware of the strengths and weaknesses in all positions. Their rights and hazards in assuming particular positions should be examined objectively. Decisions should not be made for the student teachers but all possible effort should be exerted to assure that they make decisions from a base of understanding rather than from a base of ignorance.⁴⁰

Several years later, Horton followed up his concerns toward the role of student teachers in strikes by surveying one hundred teacher education institutions. Horton concluded that three-fourths of the institutions had policies but the policies were "often vague and unworkable."⁴¹

In 1974 the Association of Teacher Educators issued colleges and university members an unpublished paper entitled "Providing Legal Status for Student Teachers." This compilation was a measure

⁴⁰Lowell, Horton, "Strikes, Sanctions, and the Student Teacher" Contemporary Education, October 1971, 39.

⁴¹Lowell Horton, "Teacher Strikes: What Should the Student Teacher Do?" The Journal of Teacher Education, Spring 1974, 74.

to help the states develop appropriate state legislation "delineating the legal status of student teachers."⁴²

Earl Hoffman, expressed concern that all student teachers should know related laws pertaining to their teaching:

Student teaching is the most exciting part of the teacher education program. Like that certain refreshing beverage, this is the "real thing." But do student teachers place themselves in legal jeopardy when they begin their practice teaching? What legal responsibilities may be placed upon them? Can they be held liable for their activities in the school district when they are neither certified nor under contract? Few of them seem to know.⁴³

In 1976, Bobby Anderson discussed recent legislation in Kansas, North Carolina, North Dakota, and Tennessee regarding student teachers. In Mississippi, Anderson explained, recently enacted legislation helps the student teacher understand his lawful position.⁴⁴

Also published in 1976, William Hazard's pamphlet, Student Teaching and the Law, utilizes Illinois and Indiana state laws specifically to illustrate the limits of student teaching liability. Speaking in general terms, Hazard wrote:

The law, once a distant cousin to education and schooling, has moved dramatically into a close partnership. It is becoming increasingly clear that the really important

⁴²Carl Rose, ed., "Providing Legal Status for Student Teachers" (Unpublished manuscript, Association of Teacher Educators, 1974), 1.

⁴³Earl Hoffman, Teacher Education: Trends, Issues, Innovations (Danvill, Ill.: Interstate Printers and Publishers, 1974),

⁴⁴ BobbyAnderson, The Law and the Teacher in Mississippi, 80-85.

educational decisions are made in the Congress and in the courts, and that the law carries substantial implications for the preparation and practice of teaching. ⁴⁵

Fred Swalls' booklet in October 1976, questioned the certification officers in different states in addition to addressing the statutes and cases in thirty-six states as they relate to the student teacher.⁴⁶

A 1976 study by R. Craig Wood compiled statutes, cases and attorney generals' opinions by states with regard to student teachers. This study recommended that states which lack statutes, attorney generals' opinions, or case law should move toward enacting legislation in order to provide clear legal status for student teachers. Wood also suggested further research to examine the legal aspects of undergraduates being used as aides in the public schools of the United States. ⁴⁷

Swalls stated that case laws relating to student teaching are not substantial. He further stated that from 1906-1975 there were only fourteen court cases docketed.⁴⁸

⁴⁵W.R. Hazard, Student Teaching and the Law (Washington, D.C.: ERIC Clearinghouse on Teacher Education, 1976), 2.

⁴⁶Swalls

⁴⁷R. Craig Wood, The Current Legal Status of Student Teaching in the United States (U.S. Educational Resources Information Center, ERIC Document ED 127-283, December, 1976).

⁴⁸Swalls, 42.

Hazard stated the following:

Aside from a few relatively minor laws dealing specifically with student teachers, the significant legal problems germane to student teaching are the same ones affecting the profession at large. For whatever comfort there is, student teaching and supervision activities have triggered very few law suits. Apart from the usual risk of suits in tort for negligence, student teachers are generally not of sufficiently high stature to serve as defendants in suits by pupils or parents. This may change, but at this point, the law speaks softly to preservice professionals and more stridently to practitioners.⁴⁹

In 1980, Black studied the fifty states on the subject of compensating supervising teachers. He found that the amount varied from no compensation to a tuition waiver of \$390. His research also noted that thirty-two states were requiring early field experience, while only six provided compensation for supervisory teachers.⁵⁰

In 1982 Haberman and Harris asked certification officers in each state to identify the legal requirements for serving as a cooperative teacher. Their study revealed that twenty-four of the fifty states reported no legal requirements for serving as a cooperative teacher. Further, they reported the following:

Of the remaining twenty-six states, two required only that a teacher be certified. Sixteen states, Puerto Rico and the District of Columbia, require that the teacher have some experience, generally two or three years of teaching. Nine states and Puerto Rico require that a program or course related to supervision of student teachers must be completed prior to or during a teacher's service as a

⁴⁹Hazard, 2.

⁵⁰D. Black. Cooperating Teacher Renumeration: Where Are we? (Reston, Va.: Association of Teacher Education, 1980), 87.

cooperating teacher. Three states require the cooperating teacher have a masters degree.⁵¹

A 1982 national survey of student teaching programs found authors Yates and Johnson asking the following question: "To the best of your knowledge, have your student teachers ever been involved in a lawsuit growing out of any aspect of student teaching? If yes, please briefly state the circumstances and outcomes." ⁵²

The survey elicited forty-seven responses to the question. A summary of these responses denotes the areas in which there were two or more suits;

1. Controversy over final grades for student teachers
2. Discrimination against student teacher
3. Student teacher accused of striking pupil
4. Student teacher accused of negligence resulting in injury to a pupil
5. Student teacher accused/convicted of a felony
6. Withdrawal of student teacher from assignment
7. Use of corporal punishment by student teacher

There were also five cases growing out of denial of admission of teacher education students to student teach but these were not cases

⁵¹M. Haberman and P. Harris, "State Requirements for Cooperating Teachers" Journal of Teacher Education, Spring 1982, 45-47.

⁵²Yates and Johnson, 49.

growing out of activities during student teaching.⁵³

Elizabeth Dillon-Peterson, in 1982, prepared a paper on student teaching as an asset or liability. She explained that differences in perspective exist between the public school and the university in terms of all the elements of teacher training program. The public school views the teacher training institution as having the responsibility for making the decisions about student teaching. The responsibility of the public school is then to carry it out. The university point of view is often that public school personnel are too caught up in day-to-day operations of the educational process to give adequate thought or attention to teacher training. She further stated that an alternative training program could help in increasing good teacher characteristics, and that teaching knowledge and skills, would feature (a) a plan for total collaboration and management including jointly appointed college and public school personnel who would plan for implementation, monitoring, and evaluation of the program; (b) a curriculum having the four major dimensions of educational problem-solving essential to communication skills, strategies for working in and changing educational organizations and content mastery, and (c) an expanded time to include, at minimum, a fifth

⁵³Ibid., 49.

year of preparation.⁵⁴

In 1984, Peach and Reddick wrote an article on helping the student teacher avoid adverse legal actions. They identified five areas of school environment which could lead to propensity for teacher and student teacher liability. The five areas were negligence, malpractice, rights of privacy, field trips and search of students and school property. Peach and Reddick further discussed and recommended specific guidelines for diminishing the possibility of legal action taken against teachers and student teachers.⁵⁵

The review of literature shows that a legal support system for student teachers is lacking behind the need, and is especially required when support for quality programs is concerned. Most of the states now recognize the importance of field training addressing it through either statute or through program approval standards, as they make student teaching a prerequisite for initial teacher certification. However, there tend to be serious deficiencies in assumptions about field training and programs. States must sooner or later address this pressing issue.

⁵⁴Elizabeth Dillon-Peterson, "Student Teaching: Problems and Promising Practices," Texas Research and Development Center for Teacher Education, January, 1982, 32.

⁵⁵Larry Peach and Thomas L. Reddick, "Helping Student Teachers Avoid Adverse Legal Action," Tennessee Education, Spring 1984, 20-24.

It is apparent that previously conducted studies do not fully furnish a complete and up-to-date analysis in regard to the legal status of student teachers. These studies either examined the subject in a limited number of states or were conducted several years ago. Consequently, although much has been written regarding student teaching, some of the questions posed in Chapter I remain unanswered after a review of literature.

CHAPTER III
LEGISLATION AND STATUTES OF THE FIFTY STATES
AND THE DISTRICT OF COLUMBIA CONCERNING
STUDENT TEACHING

Each of the fifty states and the District of Columbia have addressed, either directly, or by implication, the practice of student teaching as preparation for entry into classroom teaching and the profession of education. State statutes, case law and state board of education policies (where applicable) in each of the states and the District of Columbia have been analyzed to compare the consistency applied to the governance of student teaching. Some states have strongly worded legislation that recommends, determines guidelines, and endorses student teaching. Other states, while implying a need for such preparation, do not address student teachers per se or defer authority to the state board of education.

Chapter III is an analysis of the statutes of the fifty states and the District of Columbia concerning student teaching. The statutes are divided into two major headings: expressed and implied legislation.

Following is a list of states which have enacted expressed legislation on student teaching:

Alaska	Kentucky	Ohio
Arizona	Maryland	Oklahoma
California	Massachusetts	South Carolina
Delaware	Minnesota	Texas
Idaho	Montana	Utah
Iowa	New Jersey	Wisconsin
Kansas	New York	District of Columbia
	North Carolina	

The legislatures of these twenty-two states have defined student teaching in different ways. For example, the Florida statute defines the duties of the student teacher as instructional:

Instructional Personnel--

"Instructional personnel" shall mean any member of the instructional staff as defined by regulations of the state board and shall be used synonymous with the word "teacher" and shall include teachers, librarians, and others engaged in an instructional capacity of the schools. A student who is enrolled in an institution of higher education approved by the state board for teacher training and who is jointly assigned by such institution of higher education and a school board to perform practice teaching under the direction of a regularly employed and certified teacher shall be accorded the same protection of the supervised internship, except for the right to bargain collectively with employees of the school board.⁵⁶

The Oklahoma statute defines the term "student teacher" and the act of student teaching as an authorized activity. The Oklahoma

⁵⁶Florida Statutes, sec. 228.041 (9).

statute states:

Student Teacher: A student teacher is a student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher.⁵⁷

Similar to Oklahoma's statutes are the Mississippi and North Carolina statutes. The Mississippi statute reads:

As used in this chapter, "student teacher" or "intern" shall mean a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator.⁵⁸

The North Carolina statute reads:

A "student teacher" is any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a local school board of education to student-teach under the direction and supervision of a regularly employed certified teacher.⁵⁹

⁵⁷Oklahoma Statutes, sec. 1-16-5.

⁵⁸Mississippi Code, sec. 37-132-1

⁵⁹North Carolina, General Statutes, sec. 115C-309.

Three states, New Jersey,⁶⁰ Idaho,⁶¹ and Connecticut⁶², recognize student teaching in statutes concerning liability protection for student teachers. The New Jersey legislation which follows is essentially the same as that found in Idaho and Connecticut :

Whenever any civil action has been or shall be brought against any person holding any office, position or employment under the jurisdiction of any board of education, including any student teacher or person assigned to other professional pre-teaching field experience, for any act or omission arising out of and in the course of the performance of the duties of such office, position, employment or student teaching or other assignment to professional field experience, the board shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom; and said board may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.⁶³

In several states, the statutes acknowledge the role of student teachers as the legislative enactments describe certificate exemption.

In Arizona, for example, the statute states:

Students in the state universities and colleges may, under rules prescribed by the board of regents, teach in the training schools and other public schools without

⁶⁰New Jersey, Revised Statutes, sec. 18A: 16-6.

⁶¹Idaho Code, sec. 33-1201.

⁶²Connecticut, General Statutes, sec. 10-235, inter alia.

⁶³New Jersey, Revised Statutes, sec. 18A: 16-6.

being certificated teachers.⁶⁴

This statute allows the local school board to authorize student teaching within the local school district.

Montana⁶⁵ and Tennessee⁶⁶ legislative enactments also allow students to participate in clinical experiences by exempting the student teacher from certification requirements. The statute authorizes local school boards to allow student teachers to be assigned jointly by an institution of higher learning and the local school board. In New Mexico, the statute simply states that student teachers are not covered by certification requirements while they are engaged in the student teaching experience, and grants authority for the program to the state board of education.⁶⁷ Missouri, in requiring teachers to have a certificate before teaching, allows the state board of education to formulate rules and regulations regarding student teaching.⁶⁸ Both the New Mexico and Missouri state boards of education have policies permitting the local school board to accept student teachers in their local districts.

Delaware has no state statute allowing local school boards to

⁶⁴Arizona, Revised Statutes, sec. 15-901.C.

⁶⁵Montana, Revised Code, sec. 75-6001.

⁶⁶Tennessee, Code Annotated, sec. 49-1301.

⁶⁷New Mexico, Statutes, sec. 77-8-1.20.

⁶⁸Missouri, Annotated Statutes, sec. 168.0231.

permit student teaching but the state statute does say:

For an individual seeking certification in a secondary content area which corresponds to the major field of study in the bachelor's program, it is intended that 1 summer of courses in the special institute; one-half year (1 semester) of student teaching, or 1 year of supervised, full time teaching experience in the Delaware public school; and additional course work as necessary constitute the program of study leading to the initial standard certificate.

For individuals seeking certification in elementary or special education, it is intended that 2 summers of courses in the special institute (immediately before and after a student teaching experience or 1 year full-time teaching experience), one-half year of student teaching or 1 year of supervised, full-time teaching experience in a Delaware public school and additional course work as necessary constitute the program of study leading to the initial standard certificate.⁶⁹

Local school boards in Delaware follow the opinion of the attorney general, which states that the use of student teachers is a legal activity in the state of Delaware.⁷⁰

The Massachusetts attorney general ruled that the local school committees can make a cooperative agreement with the various universities whereby students may come into the public schools to do student teaching.⁷¹ However, Massachusetts has no state statute, administrative rules, court decisions, or attorney general's opinions regarding the relationship between local school boards and the

⁶⁹Delaware Code, sec. 1252.

⁷⁰Richard S. Gelbelein, Deputy to Delaware Attorney General Kenneth C. Madden, October 19, 1972, A.G.82.

⁷¹Massachusetts Attorney General Joseph Robinson, April 17, 1976.

universities.

Texas provides funds for the student teaching program through the Local Cooperative Teacher Education Center program, which permits the establishment of centers, instructional materials, and supervision for student teachers. These Teacher Education Centers also provide in-service improvement programs for the supervisors of student teachers.⁷² Although there are no state statutes, rules and regulations, court decisions or attorney generals' opinions, the local school boards and the universities or colleges work together in providing experiences for student teachers.

In the state of Alaska, the local boards of education are authorized to permit student teaching through a letter of authorization from the chief school administrator.⁷³ School Boards in Wisconsin⁷⁴ and Rhode Island⁷⁵ are authorized to permit student teaching under administrative regulations governing student teaching certificates within the respective states.

Minnesota's legislative enactment authorizes agreements between local school boards and approved colleges or universities for

⁷²Texas, Code, Annotated, sec. 11.311.

⁷³Alaska Department of Education, Rules and Regulations, 12.070 (3).

⁷⁴Wisconsin, Administrative Code, sec, P1, 301 [2] [9].

⁷⁵Rhode Island, Regulatory Functions.

student teachers. The student teacher must "have completed not less than two years of an approved teacher education program."⁷⁶

Student teachers are permitted to teach in the public schools in New York because of the following:

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be dismissed by reason of the presence of cadet teachers.⁷⁷

Both Utah and Kansas provide for the issuance of student teacher certificates by their respective state boards of education. The Utah Statute states:

... A certificate for student teaching shall be issued only upon recommendation of a teacher training institution in the state of Utah approved and accredited by the state board of education. The certificate shall authorize the holder to teach in a specified school or schools under the general and specific direction of a qualified and regularly certified person. The certificate shall be valid only for the student teaching period. No person shall perform student teaching without first being a holder of the certificate herein named.⁷⁸

The Kansas statute says:

The board of education of any school district may enter into contracts with colleges and universities for the use of student teachers in public schools. The state board

⁷⁶Minnesota, Statutes, sec. 123.35 subd. 13.

⁷⁷New York, Education Law, sec. 3001.

⁷⁸Utah, Code Annotated, sec. 53-2-15.

of education, by rules and regulations, shall provide for the issuance of student teaching certificates and may authorize persons holding such student teaching certificates to assume responsibilities of teachers in schools within limitations prescribed by the state board. Student teaching certificates shall be issued without the charge of any fee or cost by the state board of education.⁷⁹

South Carolina legislation states that colleges and universities in the State:

shall require that students pursuing course leading to teacher certification successfully complete one semester of student teaching and other field experiences and teacher development techniques directly related to practical classroom situations.

shall adopt program approval standards whereby each student teacher shall be evaluated at least three times by a representative of the college or university in which the practice teacher is enrolled.⁸⁰

Kentucky's legislative enactment provides for the State Board of Education to regulate agreements between the local school boards and the college or universities.⁸¹

In 1974, Maryland passed a law modeled after that of Kentucky which authorizes any local board of education and the Board of Commissioners for Baltimore to agree on a cooperative agreement "for the purpose of student teaching or supervised field experiences with any teacher training institution."⁸²

The list below indicates the twenty-nine states that have implied

⁷⁹Kansas Statutes, sec. 72-1392.

⁸⁰South Carolina, Code of Laws sec. 59-26-20, (h) (i).

⁸¹Kentucky, Revised Statutes, sec. 161.042.

⁸² Maryland, School Law, sec. 116B.

legislation dealing with student teaching:

Alabama	Indiana	Nevada	Vermont
Arkansas	Louisiana	New Hampshire	Virginia
Colorado	Maine	New Mexico	Washington
Connecticut	Maryland	North Dakota	W. Virginia
Florida	Michigan	Oregon	Wyoming
Georgia	Mississippi	Pennsylvania	
Hawaii	Missouri	South Dakota	
Illinois	Nebraska	Tennessee	

Three of these states use very vague terms permitting student teaching. Under Title 52 of the Code of Alabama (1940), as amended, "local boards of education establish regulations, rules and policies for the operation of the schools under their jurisdiction."⁸³ West Virginia legislative enactment provides a different approach: "The education of teachers in the state shall be under the general direction and control of the state board of education,"⁸⁴ which allows student teaching in the local school districts of the state.⁸⁵ The Virginia Constitution states, "The supervision of schools in each district shall be vested in

⁸³ Erskine S. Murray, Assistant State Superintendent of Education, June, 18, 1976.

⁸⁴West Virginia Code, sec. 18-2-6.

⁸⁵*Ibid.*, sec. 18-2-6.

the local school board"⁸⁶

Six states, Maine,⁸⁷ Pennsylvania,⁸⁸ Ohio,⁸⁹ Michigan,⁹⁰ New Hampshire,⁹¹ and Vermont⁹² utilize an approved program approach that is governed by the states' departments of education. The six departments of education develop and regulate policies and procedures concerning students practice teaching in schools. In so doing, it would appear logical that the local boards are then authorized to accept student teachers.

Louisiana has no legislative enactment regarding student teaching. However, Louisiana does have a de facto provision, that enables the state to engage in a student teaching program with local school boards.

In the states of Georgia and Hawaii, administrative regulations

⁸⁶Virginia Constitution, Article VIII, Section 7.

⁸⁷ Maine, sec. 44-90.

⁸⁸State Board Regulations, Chapter 49, Section 49.13.

⁸⁹"Guidelines for Colleges or Universities Preparing Teachers." (Columbus: Department of Education), p.iii.

⁹⁰"Administrative Rules governing the Certification of Michigan Teachers," R.390.1105 (3).

⁹¹ "Rules governing Certification of Teachers in New Hampshire," p. 49.

⁹²Regulations Governing the Certification of Educational Personnel, " June 1976, p.2 Section D.

permit local school boards to place student teachers in their respective districts. Georgia permits local school boards to accept student teachers under the enacted Competency-Based Teacher Education Program,⁹³ while Hawaii's state regulations state that the teacher-training institute must certify the competency of the trainee before he or she can engage in the activity of student teaching.⁹⁴

Several states defer authority to the local school board to enter into an agreement which allows them to accept student teachers from colleges/universities. For example, the states of Wyoming and Colorado both have statutes with identical language, which authorize boards of trustees and local boards of education :

... to enter into written, contractual agreements or arrangements with any college or university for the purpose of providing field experiences in teacher education. Field experiences shall include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution regardless of the title of his position.⁹⁵

Indiana provides legal authority for such agreements as long as the college/university is accredited by the "training and licensing

⁹³Georgia State Board of Education "Guidelines for Competency-Based Education" September 11, 1975.

⁹⁴Hawaii Department of Education, Policy 5104.

⁹⁵Wyoming Statutes, sec. 21-510, Colorado Revised Statutes sec. 22-62-103.

commission of Indiana."⁹⁶ South Dakota law authorizes agreements between local boards and colleges or universities under the control of the university board of regents.⁹⁷ Oregon is similar to Indiana and South Dakota in that it authorizes agreements if the college or university is approved by the Teacher Standards and Practices Commission.⁹⁸ Iowa authorizes written contracts by the local school boards if the college or university is approved by the Board of Educational Examiners of Iowa.⁹⁹ In Nebraska,¹⁰⁰ the law states that the college/university must be approved by the State Board of Education. Illinois authorizes agreements between the local boards of education and the "teacher training institute."¹⁰¹

The local school boards of North Dakota are authorized to enter into a cooperative agreement and a financial arrangement regarding student teaching and field experience in the public schools of the state.¹⁰² The state of Washington, in a similar agreement, authorized an

⁹⁶Indiana, Indiana Statutes, sec. 20-5-10-1.

⁹⁷South Dakota, Codified Laws, sec. 13-53-8.

⁹⁸Oregon, Revised Statutes, sec. 342.980.

⁹⁹Iowa, Iowa Code, sec. 260.27.

¹⁰⁰Nebraska, Revised Statutes, sec. 79-1297.

¹⁰¹Illinois, Revised Statutes sec. 10-22.37.

¹⁰²North Dakota, Century Code, sec. 15-47-40.

arrangement which gives authority to the state Board of Regents to enter into agreement with the board of directors of any school district in the state of Washington.¹⁰³ In the District of Columbia, the public schools are authorized "to accept free and voluntary services of educators and teachers."¹⁰⁴ "Given the fact that student teachers are engaged in the delivery of instructional and educational services, there has never been a question as to [the district's] authority to use student teachers."¹⁰⁵ Nevada authorizes the local school boards to enter into agreements with the University of Nevada school system for "training purposes as student teachers, counselors or library trainees, or for laboratory experiences."¹⁰⁶ This covers all student teachers in the State of Nevada since there are only two institutions engaged in teacher training.¹⁰⁷

In Arkansas, student teachers may do their practice teaching only in primary or secondary schools if the school is accredited by the

¹⁰³Revised Code of Washington, sec. 28B.10.600.

¹⁰⁴District of Columbia Code, sec. 31-802.

¹⁰⁵Ibid.

¹⁰⁶Nevada, Revised Statues, sec. 391.095.

¹⁰⁷The University of Nevada at Reno, and the University of Nevada at Las Vegas.

state Department of Education.¹⁰⁸ The district school boards in Arkansas are authorized to enter into contracts with the colleges or universities for the distribution of the student teachers.¹⁰⁹

Many states have insufficient legislation to authorize local public school boards to allow student teaching. Although legislation is implied, some type of student teaching is permitted and required to receive a license or certificate to teach in each of the states in the second list.

The state- by-state analysis of student teaching legislation has led this researcher to the definitive conclusion that all states should have a comprehensive legislation, either expressed or implied, dealing with student teaching. Thus, states should identify the following in their legislation:

1. Permission of student teachers in public schools
2. Certification requirements for student teachers
3. Status of student teachers as substitutes
4. Status of student teachers as employees
5. Financial compensation to student teachers
6. Workers' compensation for student teachers
7. Due process rights to student teachers
8. Liability for occasions applicable to student teachers

¹⁰⁸Arkansas, Arkansas Statutes, sec. 80-1233.

¹⁰⁹Arkansas, Arkansas Statutes, sec. 6-17-305(c).

9. Student teachers and regulations for discipline
10. Student teachers access to student records
11. Student teachers' filling in for others

Chapter IV

LEGAL ASPECTS OF STUDENT TEACHING

An analysis of case law concerning student teaching reveals that there has been little overt litigation in the field of student teaching. However, there are many cases dealing with certified teachers with judicial principles applicable to internship or student teaching.

The purpose of this chapter is to provide a general review, analysis, and discussion of selected cases which have the most significant effect on student teachers. These cases illustrate the variety of legal decisions and are not all-inclusive in nature. A description of the facts of each case, the decision in each case, and finally, a discussion of the decision are set forth. The second part of the chapter contains an analysis of selected cases concerning student teaching.

Courts have made most decisions in light of state statutes and the United States Constitution. The central question that emerges in case law concerns the rights of a student teacher. As established in previous chapters, student teachers' rights are derived from the rights of certified teachers.

Controversy concerning student teaching is complex in nature. State legislatures and courts as well as federal courts have influenced

decisions concerning student teaching.

Framework for Analyzing Federal Court Decisions

There are, nevertheless, two principal issues through which federal courts obtain jurisdiction in litigation involving public education: (1) alleged violation of constitutionally protected rights, privilege, or immunity of an individual; and (2) validity questions of state or federal statutes under the United States Constitution.¹¹⁰

These two major issues have led to federal court involvement concerning student teaching. Constitutional questions fall into three major categories: academic freedom of teachers, rights of students, and rights of school boards to make decisions. Controversies concerning state and local legislation mainly involve issues such as payment of supervising teachers, disciplining students and Darwinian theory.

Academic Freedom of Student Teachers as Teachers

Historically, judicial attitudes toward academic freedom tend to change with prevailing educational theory and philosophy. Acceptance of academic freedom in the American universities and colleges began in the late 1800s. The same acceptance of freedom to teach was never extended to elementary and secondary education.¹¹¹ The role of

¹¹¹ *Ibid.*, 1179.

education in the universities and colleges became generally accepted as one involving the pursuit of learning through scholarly teaching, research, publication, and service to the region, state and nation. The traditional role of public schools, on the other hand, was viewed as one which was mainly concerned with the indoctrination or transmission of community mores and established thought.¹¹²

The last three decades have brought about significant changes in public schools. The central purpose of American education as slated by the Education Policies Commission is to produce " a rational thinking individual, who uses these intellectual abilities in becoming a useful and productive member of society."¹¹³ Recently this philosophy has achieved some acceptance as courts have begun to explore the right to teach. In Swezy¹¹⁴ Chief Justice Earl Warren noted:

Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire to study, and to evaluate, to gain new maturity and understanding; otherwise our civilization

¹¹² Ibid.

¹¹³ Educational Policies Commission, The Central Purpose of American Education (Washington D.C.: National Education Association, 1962), p. 12. See also Lawrence A. Cremin, The Transformation of the School (New York: Alfred A. Knopf, 1961).

¹¹⁴ Swezy v. New Hampshire, 354 U.S. 234, 77 S.Ct.,1203, 1 L.Ed. 2d 1311 (1957).

will stagnate and die.¹¹⁵

The Supreme Court has recognized that " education is perhaps the most important function of state and local governments,"¹¹⁶ and public school education is the primary vehicle which exposes children to the world around them and integrates them into society.¹¹⁷

The landmark Tinker¹¹⁸ case, although dealing primarily with students rights, has had profound influence on the academic freedom of teachers. Justice Abe Fortas mentioned that;

First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the school house gate.¹¹⁹

¹¹⁵ Ibid., 354 U.S., 250.

¹¹⁶ Brown v. Board of Education, 347 U.S. 483, 493, 74 S.Ct. 686, 98 L.Ed. 873 (1954).

¹¹⁷ Ibid.

¹¹⁸ Tinker v. Des Moines Independent Community School Districts, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed. 2d 731 (1969).

¹¹⁹ Ibid., 506.

The Court decision in Tinker¹²⁰ established a precedent which has been followed in case law since 1969.

It seems clear that the classroom teacher's right to exercise professional responsibility in teaching is presently a judicially cognizable right and is constitutionally based on the First Amendment.¹²¹ A unified legal definition of academic rights of teachers has still not emerged. Therefore, the scope of protection available has relied on contracts and due process; the same can be said for student teachers.

In 1967 the Court in Keyishian¹²² invalidated the regulatory scheme developed in New York to implement the Feinberg Law, a statute designed to assure that subversive teachers were not employed in the schools and colleges of New York. The Court in Keyishian stated emphatically, "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that

¹²⁰ Ibid.

¹²¹ Meyer v. Nebraska, 262 U.S. 309, 400, 401 (1923) .

¹²²Keyishian v Board of Regents of the State University of New York, 385 U.S. 589, 87 S.Ct. 675 (1967).

cast a pall of orthodoxy over the classroom."¹²³

Rights of Student Teachers as Students

Student teachers, although thought of as interns leading up to becoming certificated teachers, are often thought of as minors since they have not completed all required course work for graduation. First Amendment rights, in the Tinker case, gives evidence that both teachers and students have constitutional rights and do not shed these rights at the school house gate. The very nature of the term student teacher leads to questions applicable to both student and teacher.

Two major Supreme Court decisions expanded the constitutional rights of students. First, in 1967 the Supreme Court encapsulated procedural due process for students of all ages in In re Gault.¹²⁴ Second, the 1975 Goss¹²⁵ decision insisted that students be given a due process hearing before suspension and/or dismissal.

In the 1969 Tinker case, the Supreme Court made its first unambiguous assertion concerning the First Amendment rights of students. Tinker was significant in extending judicial concern to areas

¹²³ *ibid.*, 683.

¹²⁴ *In Re Gault*, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed. 2d 527 (1967).

¹²⁵ *Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed. 2d 725 (1975).

formally omitted from legal process.¹²⁶ Even in Tinker caution was expressed by Justice Potter Stewart's concurring opinion which stated in part that a child does not possess the " full capacity for individual choice which is the presupposition of the First Amendment guarantees."¹²⁷ Nevertheless, as a result of the Tinker decision, it is now customary for the federal courts to review the constitutionality of cases involving public school students when petitioned to do so.

In Moore v. Gaston County Board of Education¹²⁸, a student teacher was dismissed from his student teaching duties because he gave unorthodox answers to questions concerning creation, evolution, and the nature of God. Plaintiff Moore was removed from his student teaching duties without warning when he responded with answers approving Darwinian Theory, indicating personal agnosticism, and questioning literal interpretation of the Bible. The court ruled that dismissing the student teacher was a violation of the First Amendment and due process of the Fourteenth Amendment. This case is an example that student teachers are afforded the same rights as teachers as guaranteed by the First and the Fourteenth Amendment.

¹²⁶ Richard Gyory, "The Constitutional Rights of Public School Pupils," Fordham Law Review 40 (1971): 214.

¹²⁷ Tinker v. Des Moines, supra note 32, 515.

¹²⁸ Moore v. Gaston County Board of Education, 357 F. Supp. 1037 (1973).

In Baker¹²⁹, the Court upheld North Carolina General Statute stating that corporal punishment is permissible as long as it is reasonable and lawful. The Court also stated that to implement the statute without according the students procedural due process would be a violation of the Fourteenth Amendment.

The right of student teachers to perform an internship was tested in the Lai¹³⁰ case where it was denied right to a student by the university he attended. The Court was of the opinion that, absent a showing that the university authorities acted in bad faith or exercised their discretion arbitrarily, the university is entitled to a side discretion in the regulations of the training of their students. Thus, the Court ruled in favor of the university and its regulations.

Rights of School Boards to Make Decisions

School boards throughout America are empowered through state statutes to be the policy making body for a public school system and to enforce the policies of the school system. In most states, the local school boards must approve the use of student teachers in their school. Within the scope of school boards' authority is the power to approve or disapprove the use of student teachers. If student teachers

¹²⁹Baker v Owen, 395 F.Supp. 294, 96 S.Ct. 210 (1975).

¹³⁰Lai v Board of Trustees of East Carolina University, 330 F.Supp. 904 (1970).

are approved by school boards, then school boards have the affirmative duty to protect the Constitutional rights of student teachers.

The court's Tinker¹³¹ decisions have greatly affected the litigious posture of the school boards. Expanded constitutional rights of students have "largely taken place as the results of conflict with the school administrators."¹³² Since the Landmark Tinker decision in 1969, school boards and school districts usually appear in court as defendants. Plaintiffs are generally pupils, teachers, parents, and taxpayers. Although Tinker did not deal directly with procedural due process, schools have been forced to view that area more closely than in the past.

Another effect of Tinker is that school boards have had to shoulder the burden of proof, justifying actions and regulations. The testimony of school officials has less relative weight than before 1969.¹³³ Judgmental statements by expert educators are not as easily accepted by courts as they were in the past. In other words, the trend has moved away from unquestioning acceptance of testimony by school authorities.

¹³¹ Tinker v. Des Moines Independent Community School District, 393 U.S. 503, S.Ct. 733, 21 L. Ed. 731 (1969).

¹³² Gyory, 237.

¹³³ *Ibid.*, 235.

Tinker v. Des Moines Independent Community School District

393 U.S. 503, 89 S.Ct. 733, 21 L.Ed. 2d 731 (1969)

Facts

The United States Supreme Court received this case on appeal from the Eighth Circuit Court of Appeals. It involved the enforcement of a regulation prohibiting students from wearing black arm bands.

In 1965 a group of Des Moines parents and students gathered together to discuss the Vietnam War and subsequently determined to publicize their objections to the Vietnam War by fasting and wearing black armbands during the Christmas holiday season. School principals became aware of this plan. During the afternoon of December 14, 1965, the school principals adopted a policy that students wearing armbands to school would be asked to remove them. If students refused to remove the armbands, they would be suspended until they could come to school without the armbands.

Three students, John and Mary Beth Tinker and Christopher Eckhardt, who were made aware of the policy, nonetheless wore armbands to school and were suspended. The students brought action against the school board, and involved school administrators as the result of the suspension.

Decision

Associate Justice Abe Fortas writing for the majority in a 7-2 decision, insisted that school regulations promulgated by the school principal prohibiting wearing black armbands as administered under the circumstances "was an unconstitutional denial of students' rights of expression of opinion."¹³⁴ Moreover, continued Justice Fortas, there was no reasonable indication that substantial interference with school activities would occur. And, as a matter of fact, there was no disruption of the normal schooling process. What school officials did, maintained Justice Fortas, was "punish petitioners for a silent, passive expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners."¹³⁵ Justice Fortas insisted, "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression."¹³⁶

Discussion

The major legal principals established in This decision are as follows:¹³⁷

1. A symbolic act performed to express certain views is a form of

¹³⁴ Tinker v. Des Moines Independent Community School District, 393 U.S., p. 503.

¹³⁵ Ibid., p.508.

¹³⁶ Ibid.

¹³⁷ Ibid., p. 503.

free speech which is within the protection of the First Amendment.

2. Pure speech is protected under the Constitution and may not be suppressed by school authorities.

3. Teachers and students possess First Amendment rights of freedom of speech and expression even when applied in light of the special environment of the school.

4. "Neither students nor teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."¹³⁸

5. School and state authorities have power to define and control conduct in the schools as long as it is consistent with fundamental constitutional safeguards.

6. "[U]ndifferentiated fear or apprehension of disturbance is enough to overcome the right to freedom of expression," maintained Justice Fortas. Recognizing that any departure from the norm might cause some disturbance or fear, Justice Fortas insisted "our constitution says we must take that risk."¹³⁹ The strength, vigor and independence of American democracy is predicated on "this kind of openness."¹⁴⁰ Material and substantial disruption must be shown before free expression can be prohibited.

7. Finally, Justice Fortas issued a philosophical-legal reminder to

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

school boards, and for purposes of this study, school boards which might be contemplating some form of censorship.

Moore v Gaston County Board of Education.

357 F. Supp. 1037 (1973).

Facts

George Ivey Moore, a student teacher from the University of North Carolina at Charlotte, was dismissed from his student teaching duties because he gave unorthodox answers to student questions (derived from a lesson left by a teacher) about creation, evolution, immortality, and the nature or existence of God. At the time of the incident, Mr. Moore was substituting for a teacher other than the individual to whom he was assigned to do his practice teaching.

Decision

The District Court held that discharging George Moore, student teacher, without warning for responding to students' questions with answers approving Darwinian Theory, indicating personal agnosticism, and questioning the literal interpretation of the Bible, was a violation of the Establishment clause of the First Amendment and due process

of the Fourteenth Amendment.

Discussion

This case is an example that student teachers are afforded the same rights as teachers are guaranteed by the First and Fourteenth Amendment. The fact that Mr. Moore was not being paid is neither material nor controlling. Even if student teachers have no right to compensation nor to permanent tenure, they nevertheless have the right not to be relieved of his teaching opportunity for unconstitutional reasons. Student teachers have a right to a fair hearing under due process safeguards, before being dismissed.

Baker v Owen

395 F. Supp. 294, 96 S.Ct. 210 (1975).

Facts

Russell Carl Baker, a sixth grade student, was punished by corporal means. A teacher, with a witness, paddled Russell Carl two times on the buttocks with a wooden drawer divider somewhat longer and thicker than a 12 inch ruler. Mrs. Baker had earlier requested that her child not be corporally punished because she opposed it on principle. The school contends that the force was reasonable and authority to be lawful.

Decision

The court upheld that North Carolina General Statute §115-146 is constitutional as it stands. But the court also held that to implement the statute without according to students procedural due process would be a violation of the fourteenth amendment. The Court also held that the punishment of Russell Carl Baker was not cruel and unusual within the Eight Amendment.

Discussion

North Carolina General Statute §115-146 gives teachers, including student teachers, substitute teachers, voluntary teachers, teachers' aides and assistants the authority to maintain good order and discipline in their respective schools. The statute goes on to say that principals, teachers, substitute teachers, voluntary teachers, teachers' aides and assistants and student teachers in the public schools of North Carolina may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order.

Lai v Board of Trustees of East Carolina University.

330 F. Supp. 904.

Facts

Robert Lai, until the spring quarter, 1970, was a full-time student at East Carolina University, enrolled in an education program which leads to a B.S. degree. One of the requirements for this degree is student teaching, which consists of a student being placed in a local school, under the supervision of a teacher and a college supervisor.

On July 9, 1969, Mr. Lai was arrested in New York for the possession of dangerous drugs but the case was dismissed September 17, 1970. During the Winter Quarter of 1970, Mr. Lai made application to student teach but was rejected. Mr. Lai was afforded an opportunity to be heard before the Teacher Education Committee. This was done in February 19, 1970, his application was again rejected. Mr. Lai claimed that his rights granted by the First, Fifth, Eighth, Ninth, and Fourteenth Amendments were violated.

Decision

The court is of the opinion that, absent a showing that university authorities acted in bad faith or exercised their discretion arbitrarily, the university is entitled to a wide discretion in the regulations of the training of their students. Thus, the court ruled in favor of the university and its regulations.

Discussion

This is an example of a university using its discretion to weed out anyone deemed unsuitable for teaching. It also showed that colleges and universities are not normally subjected to the supervision or review of the courts in the uniform application of their academic standards.

Framework for Analyzing State Court Decisions

The Tenth Amendment of the Constitution of the United States states that the powers not delegated by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.¹⁴¹ Since education is not referred to specifically in the United States Constitution, the responsibility for it is delegated to the states. Every state constitution makes provision for a system of free education. The legislative branch of each state government issues statutes which govern the public schools within their respective borders. Occasionally courts must decide certain issues which may not have occurred to the legislature in designing the statute. In these issues the court must try and guess at what the legislature had intended if the question were addressed at the time of adoption.

¹⁴¹U.S. Constitution, Amend. X.

Power of the State to Approve Teachers

It is undoubtedly within the state's power to limit the teaching profession to those who meet certain requirements and prescribed standards. Because the state requires that young people attend school and because the state has substantial expectations from public education, it is of the utmost importance that an adequate supply of highly qualified teachers be assured. It is somewhat surprising, however, that most of the litigation on access to the teaching profession involves nonacademic qualifications, while the government's primary interest is to assure the instructional abilities of those charged with educating children.

Perhaps even more astonishing is the uniformity of state laws qualifying teachers when there is a plethora of possible conceptions of attractive education and effective teachers ranging across history and ideology to every extreme. Teacher preparation and certification are almost exclusively the prerogative of the state educational agencies, state school boards and state departments of education. All fifty states and the District of Columbia now require that a person be certified before becoming a teacher in the public schools. Student teaching is a requirement not only for certification but also for a bachelor's degree for those aspiring to be a teacher.

In Spedden¹⁴², the board of education of the Fairmont school

¹⁴² Spedden et al. v. Board of Education of Independent School District of Fairmont et al., 81 S.E. 724, 74 W. Va.

system questioned the use of student teachers in the public schools. The board had no intention of allowing student teachers to do their internship in the school district's public schools even though an agreement between the school system and the institution of higher learning had been reached. The court held that the Fairmont School Board was within the power granted to it by the legislature in establishing a model school for student teaching in a public school. The court said the law requires the employment of competent teachers, but there is no express exclusion of assistant or under teachers.

In Iowa in the Clay¹⁴³ case, the issue of whether student teachers need to be certified arose. The legal issues revolved around the following: (1) Can the board of education select critic teachers from a list given to them by the college?; (2) Can the critic teachers be paid less than full-time wages by the local board, and the remainder made up by the college?; (3) Can student teachers be given provisional teaching certificates? The Iowa Supreme Court held that there was no evidence that the board of education surrendered or delegated its right to select or employ teachers. The court also said that a teacher may lawfully divide time between two schools and receive compensation for both, where both employers consent and payment is equitably apportioned. In its concluding statement, the court said that

¹⁴³ Clay v. Independent School District of Cedar Falls, et al, 174 N.W. 47, 187 Iowa 89, 1919.

normal school students engaged in student teaching in public schools without any compensation and under the supervision of a public school teacher are not required to have a teacher's certificate.

Rights of Student Teachers

Student teachers are college or university students who are acquiring experience in observation, participation, and teaching under the direction of a cooperating teacher as a part of the pre-service program offered by a teacher education institution. All fifty states and the District of Columbia recognize the importance of obtaining a teaching certificate, student teaching is a requirement for certification.

Two major Supreme Court decisions expanded the constitutional rights of students, Tinker and Gault. As already indicated in this chapter, school boards have the affirmative duty to protect the constitutional rights of students. Student teachers follow some of the same protection of the law that is afforded teachers as a result of Supreme Court decisions.

In a 1974 court case, Maurice¹⁴⁴, a substitute teacher, was injured at school after school hours and after the substitutes' scheduled working hours. The substitute was hurt while helping with a school play when a door fell. The school board ruled that she was no longer a

¹⁴⁴Maurice v Orleans Parish School Board, La. App. 295 So. 2ed. 184, 1974.

substitute and that she was not entitled to any compensation. The court ruled that there is no difference between a regular, full-time teacher and a substitute, and therefore, that the principle applies to a substitute that a teacher injured while performing extra work not connected with his or her usual duties is entitled to compensation, though such extra work is done after school hours and with added pay.

In 1971, a student at a college in West Virginia was denied the right to complete his student teaching as a result of charges that he and several others had acquired. In James v West Virginia Board of Regents¹⁴⁵, surrounding counties denied James the opportunity to complete his student teaching. The court held that where colleges contracted working agreement with counties to place students in the field for practical experience, they were not obligated to all students. The Court also upheld that the decision to reject James as a practice teacher on the basis of his reputation as a militant on and off campus was no infringement of James' constitutional rights.

Rights of School Boards to Make Decisions Regarding Student Teachers

States customarily delegate the day-to-day operational authority over their schools to local school boards, which exercise such authority over designated geographical subdivisions of the state, usually

¹⁴⁵James v West Virginia Boards of Regents, 372 F. Supp. 217, 1971.

known as school districts. Some states have intermediate educational boards performing supervisory, technical , or specialized functions for the local board of education, while others are divided into decentralized subdistricts, as has occurred in large cities such as New York and Detroit.

Both the *in loco parentis* doctrine and the doctrine of legislative delegation of authority lead to the same result: a school board has that power, and only that power, over student conduct and status which is properly related to its function of educating the pupils in its charge. Broad statutory grants of rule making power to school boards should not be read as legislative permission to promulgate any and all rules related to the functioning of the educational structure regardless of the effect that such rules might have on other societal interests. Local boards of education typically are charged by the state statutes with the duty of providing an adequate school system. To discharge this responsibility, school boards have considerable statutory authority.

As established in previous chapters, student teachers' rights are derived from the broader concept of teachers rights. However, student teachers do not enjoy the broader rights of a certified teacher.

Spedden et al. v Board of Education of Independent

School District of Fairmont et al., 81 S.E. 724,

74 W. Va.

Facts

This case involved the question of using a public school for student teaching. The case was tried by the West Virginia Supreme Court.

Decision

The court held that the district board of Fairmont was within the power granted to it by the legislature in establishing the model school for student teaching in a public school as set up by a institution of higher learning. The court said the law requires the employment of competent teachers, but there is no express exclusion of assistant or under teachers. Thus the Fairmont School district could use student teachers from the nearby institute of higher education.

Discussion

This case brought to light the use of student teachers in public schools, which for years was in question; student teachers were finding it hard to gain experience when the public schools were uncertain whether to use student teachers in the school.

Clay v Independent School District of Cedar Falls,
et al., 174 N.W. 47, 187 Iowa 89 (1919).

Facts

In Iowa, the legality of the following practices was challenged:

1. The board of education selected critic teachers from a list proposed by the college.
2. The critic teachers were paid less than full-time wages by the local board. The remainder of their salaries was made up by the college.
3. Student teachers were given provisional teaching certificates.

Decision

The court of Iowa upheld that:

1. There was no evidence that the board of education surrendered or delegated its right to select and employ teachers.
2. Teachers may lawfully divide their time between two schools and receive compensation from both, where both employers consent and payment is equitably apportioned.
3. Normal school students doing practice teaching in public schools without compensation and under the supervision of public school teachers are not required to have a teacher's certificate.

Discussion

This case answered a question that many states were asking: Does a student teacher need to have a teacher's certificate before doing the actual student teaching? The answer was no, student teachers did not

need to be certified prior to their student teaching experience.

Maurice v Orleans Parish School Board,98

La. App. 295, So. 2d. 184 (1974).

Facts

A substitute teacher sought damages for personal injuries and asked for workers' compensation. Mrs. Maurice was hired on a day-to-day basis as a substitute. The school's girls' club sanctioned and sponsored a style show for the students. Mrs Maurice, having experience in modeling, offered her services to the school. The principal of the school allowed Mrs. Maurice to help after school hours even though her services as a substitute terminated at 3:15 p.m.

During one of the practice sessions, a door fell on Mrs. Maurice. The School board contended that she was a volunteer and not an employee since the accident occurred after 3:15 p.m.

Decision

The court ruled that there is no difference between a regular, full-time teacher and one who only substitutes, and therefore, the principle applies to a substitute that a teacher injured while performing extra work not connected with his or her usual duties is entitled to compensation, though such extra work is done after school hours and with added pay.

Discussion

Substitute teachers had to be approved by the Board of Education in the Orleans Parish. Thus, the substitute was granted workers' compensation since she was an employee of the school board. Student teachers, although not hired by the boards of education, would have to have the board's approval to do their internship, thus making them eligible for workers' compensation.

State on Complaint of Schmidt v Krull.

43 N.W. 2d 241 (1950)

Facts

In an April, 1949, election, Rex Krull defeated incumbent Arthur L. Pahr, for the office of Superintendent of Schools of Shawano County, Wisconsin. In July of 1949, Marvin Schmidt, a resident and taxpayer of the county brought this action quo warranto. The complaint alleged that Krull was not qualified for the office under the requirements of sec. 39.01 (2), Stats. in that he had not taught two years in a rural public school or in a graded elementary school of the state. The complaint demanded that Krull be required to repay to the county such monies as he had received as superintendent.

Decision

The court added up the number of years that Rex Krull had been teaching and indicated that he had only one year of teaching in a rural public school or a graded elementary school of the state. The court ruled that Rex Krull did not meet the requirements of sec. 39.01 (2), Stats. Thus the defendant, Rex Krull, unlawfully held the office of Superintendent of Schools of Shawano County.

Discussion

This case shows that the guidelines set down for the county superintendents are adhered to in a strict manner. The superintendent, Krull, taught mathematics to the seventh and eighth grades of his training as a student teacher. The state of Wisconsin did not allow student teaching to count towards a year's experience, as Krull tried to claim.

Denver Public Schools v DeAvila,

544 P 2d 627 (1976).

Facts

A student nurse, Cynthia DeAvila, enrolled in a practical nursing program in a public school system, was injured while descending stairs at the hospital during a break between classes. The student claimed workers' compensation for the injury sustained. Ms. DeAvila did volunteer work at the hospital and did not receive any monetary compensation for the time spent there.

Decision

The court ruled that Ms. DeAvila was not an employee of the school district for the purposes of workers' compensation. Ms. DeAvila had not been "placed" with the hospital for the purposes of training within statute, but at the time of injury she had been attending classes conducted by instructors employed by the school district. Thus, the school district was not liable for the injury sustained.

Discussion

This case makes it apparent that student teachers involved in a related activity away from the school should understand that they are not completely covered even though the activity it is school sponsored.

372 F. Supp. 217 (1971).

Facts

Edgar James was in his last semester at Bluefield State College and engaged in his student practice teaching assignment at a high school in Virginia. During the first month of his practice teaching, the physical education building at Bluefield State College was bombed. School was suspended and the dormitories were closed. Edgar James was arrested along with several other students and charged with felonious conspiracy to bomb the building at Bluefield State College. As a result of the charge, Mr. James was suspended pursuant to the rules and regulations of the college. The charges were dropped but Mr. James never requested that the suspension be lifted or that he be given a hearing thereon. The only requirement left for Mr. James to graduate was a 34 day period of practice teaching.

Mr. James was heavily publicized for his demonstrations, allegations to college officials, and violence on and off campus. When Mr. James asked to be allowed to complete his practice teaching the surrounding counties denied him the opportunity because of his reputation.

Decision

The court held that where colleges contracted working agreements with counties in an endeavor to place student in the field for practical experience, they were not obligated to all students. The court also upheld that the decision to reject Mr. James as a practice teacher on the basis of his reputation as a militant on and off campus was no infringement of Mr. James' consitutional rights.

Discussion

The court's decision to disallow an individual from student teaching for militant activities on and off campus demonstrates that states have a legitimate interest in the quality, integrity, and efficiency of its public schools. It is not only a duty but a responsibility of school administrators to screen those who would enter the teaching profession to see that they meet the standards.

Summary

This chapter has presented insight into cases that have been litigated with reference to the field of student teaching. It is apparent that courts have made decisions in light of state statutes and the United States Constitution. The main thrust of the litigation addresses the rights of student teachers during their internship.

The purpose of this chapter was to provide a review and analysis,

of selected cases which have had the most significant effect on student teachers. These cases illustrate the variety of legal decisions and are not all-inclusive in nature.

Chapter V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Summary

Since the turn of the century teachers throughout America have completed preservice work in public school classrooms in order to obtain a teaching certificate. Student teaching is now required for initial teacher certification, with some student teachers spending as much as a year in student teaching to benefit from the extended experiences and contact with the public schools that it affords.

The practice of student teaching can be traced to the Colonial period when there were guided practices for those preparing to teach.

During the period of 1779 to 1865 there was great concern regarding the religious, political, and moral fitness of teachers. During this period, even in the absence of professional organizations and associations, there were colleges and universities who already had student teaching programs.

The roots of student teaching in North Carolina began through the generosity of the General Education Board of New York, which in 1926 granted to the School of Education at The University of North

Carolina an appropriation of \$75,000 for a five-year period to improve training for prospective high school teachers. As a result of this funding, The University of North Carolina entered into an arrangement with the Chapel Hill Board of Education to make use of the local public schools as a training center for the School of Education.

The introductory material in Chapter I identified questions that need to be answered concerning student teaching. Public schools in the United States have been using student teachers as apprentices since the mid-1600's. Since that time, certification requirements have become more clearly defined.

Student teaching involves major constitutional issues such as academic freedom of public school teachers, rights of students, and the authority of school administrators and local boards of education. Therefore, teachers, students, and school administrators should have access to appropriate information concerning both the educational and legal issues related to student teaching in order to make sound educational and legal decisions. Thus, research found in this study may assist school officials, teachers, and students.

A student teacher is a student enrolled in an accredited teacher education institution, who, having completed the requisite teacher preparation program, engages in a clinical teaching experience. The student is assigned by the preparing college or university and the local school district to work under the supervision of a certified teacher.

North Carolina General Statute 115C-309 defines a student teacher as:

any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a local board of education to student-teach under the direction and supervision of a regularly employed certified teacher.

The same statute, 115C-309, defines student teaching as:

including those duties granted to a teacher by G.S. 115C-307 and 115C-390 and any other part of the school program for which either the supervising teacher or principal is responsible.

Based on the results of this study, answers to the research questions posed in Chapter I are presented.

Question 1. Do local school boards in North Carolina have the authority to permit student teaching in the public schools?

The legal authority relating to whether or not local school boards may accept student teachers from colleges or universities is of the greatest importance for the student teacher. In North Carolina, under General Statute 115C-309, colleges or universities must be approved by the state board of education in order to allow student teachers to teach in the public schools. In North Carolina the fifteen universities of the University of North Carolina higher education system that were studied are approved by the state board of education, and all have

approved student teaching programs.

Since the general statutes permit student teaching, it can be said that all of the local school boards have the authority to permit student teaching.

Question 2. Do local school boards in North Carolina have the authority to place student teachers in teacher assistants positions?

State statutes and case law give North Carolina local school boards the legal authority to permit student teachers to serve in teacher assistants positions. However, the university in which the student teacher is enrolled has the final decision in such cases.

Question 3. Do local school boards in North Carolina have the authority to allow student teachers to serve as substitute teachers in the public schools?

In January of 1976, Attorney General Rufus Edmisten wrote his opinion concerning the use of student teachers as substitutes.

We can find nothing in General Statues which would

prohibit a student teacher from serving in the capacity of a substitute teacher and being paid for those services. We would point out, however, that a student teacher, according to the definition contained in G.S. 115-160.5, acts "under the direction of a regularly employed certified teacher." Thus, it would seem that any student teacher also serving as a substitute teacher would have to be directed and supervised by a regular teacher if credit is to be awarded for student teaching. From a practical standpoint, this requirement might make it difficult or impossible for a person to serve in a dual capacity of student teacher and substitute teacher. Absent any legislative direction, we think that the decision to permit a student teacher to also serve as a substitute teacher is for the teacher training institution after consulting with the local board.

From this attorney general's opinion and selected case law, it may be concluded that school boards may use student teachers as substitute teachers.

Question 4. Do local school boards in North Carolina consider student teachers to be employees while doing their student teaching?

An analysis of state statutes and case law reveal significant evidence for answering this question. However, from discussion of how the various states consider the question, it may be construed that North Carolina does not look upon student teachers as employees of the local school board.

Question 5. Do local school boards have the authority to grant financial compensation to the student teacher?

An analysis of state statutes and case law, reveals no significant evidence for answering this question. The data indicates that in forty states there are no legal guidelines concerning financial compensation to student teachers while serving in that capacity. It is very probable that in these states student teachers are not financially compensated because of custom or lack of funds, or because student teaching is regarded as a pre-employment experience. As far as the data of this study can determine, student teachers in North Carolina are not being financially compensated. This position has been substantiated by the State Department of Public Instruction.

Question 6. Are student teachers in North Carolina eligible to collect workers' compensation while student teaching?

Generally, workers' compensation is considered to be a benefit to a person having an accidental injury in the course of that person's employment. While the intent of the legislature is not clear, North Carolina workers' compensation statutes cover the following: "All persons under any appointment or contract of hire or apprenticeship,

expressed or implied, oral or written are covered." This includes public school employees including student teachers.

It can be argued that the student teacher is an apprentice and therefore eligible for compensation. Based on these statutes and case law, therefore, the answer is yes.

Question 7. Are student teachers in North Carolina afforded due process procedures if they are dismissed from their student teaching duties?

Every citizen is entitled to due process pursuant to the Fifth and Fourteenth Amendments to the Constitution. The Fifth Amendment says in part "nor shall any person be... deprived of life, liberty, or property, without due process of the law;"

In addition to the Fifth Amendment, the Fourteenth Amendment speaks to the actions of the State and its officials:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law;"

The two types of due process are procedural and substantive. These are separate but related legal principles with which education officials should be concerned in dismissing a student teacher from his other clinical experience.

Substantive due process deals with liberty and property rights of individuals and under which circumstances these rights may be limited. In 1973, the North Carolina courts specifically answered this question in Moore v Gaston County Board of Education, when student teacher was dismissed from his student teaching duties without due process. Under North Carolina law, student teachers who are under the supervision of a certified teacher or principal, have the same rights and protection of the laws accorded the certified teacher.

The Court said: The plaintiff was entitled, under North Carolina G.S. 115-160.6 now G.S. 115C-309, the same "protection of the laws" as a certified teacher. The University and Gaston school authorities had duly agreed that he have a term of practice teaching at the school in question. He had the reasonable expectation that this opportunity for practice teaching would continue until the end of the fall term as required by his University curriculum. The fact that he was not being paid is neither material nor controlling. Even if he had no right to compensation nor to permanent tenure he nevertheless had the right not to be relieved of his teaching opportunity for unconstitutional reasons, and he had the right to a fair hearing under due process safeguards, before being discharged.

Question 8. Are student teachers in North Carolina legally able to teach without having constant and direct supervision?

Student teaching is designed to be a supervised clinical experience which will enable the student to gather the competencies and

experience necessary for a beginning school teacher. Every teacher education student handbook examined from universities within the University of North Carolina system required periodic supervision by the public school and the university.

Based upon an analysis of the data, reasonable periodic supervision of a student teacher is required, but constant and direct supervision is not.

Question 9. Are student teachers in North Carolina legally allowed to discipline pupils?

In North Carolina under G.S. 115C-391, local boards of education are given the right to permit student discipline as long as the policies are not inconsistent with the provisions of the Constitution of the United States and of North Carolina. North Carolina G.S. 115C-391 says:

Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, substitute teacher, teacher aide or assistant, or student teacher who shall be informed beforehand and in the student's presence of the reason for punishment.

Therefore it may be concluded that student teachers

have the right to discipline students but may not use corporal punishment.

Question 10. Are student teachers in North Carolina liable for injuries sustained by pupils who are under their supervision?

Student teachers are responsible for their own negligent acts, as any citizens are. Generally student teachers are "quasi-licensed professionals" and exist in a teacher-like relationship to pupils as to supervision and duty of care.

In North Carolina, local school boards may indemnify student teachers for their legal liability arising out of or in the course of their student teaching experience or while acting at the direction of the school administrator and the local school board.

Question 11. Are student teachers in North Carolina allowed to have access to pupil records?

The Family Education Rights and Privacy Act of 1974 basically prohibits the release of personally identifiable records or files of a student without the written consent of the student's parents or the student. An exception is provided for:

"other school officials, including teachers within the

education institution or local educational agency who have an legitimate educational interest"

Attorney General Rufus Edminsten in 1976, in gave the following opinion concerning student teachers having access to student records:

In order to benefit from the student teaching experience, we believe that student teachers would need access to the records of pupils. When the exemption for "teachers" is construed with the term "legitimate educational interest," we believe that student teachers would be included within the exemption in the Act and, consequently, that student teachers could have access to the records of pupils without the permission of the parents or the students.

Based upon this opinion and with no case law to the contrary it may be concluded that student teachers may have access to student records in North Carolina.

Conclusions

Even when legal issues appear to be similar to or the same as those in cases already decided by the courts, a different set of circumstances

can produce an entirely different decision. Thus, drawing specific conclusions from legal research is difficult. However, based on an analysis of judicial decisions, the following general conclusions can be made concerning the legal aspects of student teaching, in North Carolina.

1. Local school boards have the authority to permit student teaching.
2. Student teachers may serve as teachers assistants.
3. Student teachers may serve as a substitute teacher.
4. Student teachers are not employees of the local school boards unless they assume the duties of a teacher assistant or substitute.
5. Student teachers are not financially compensated for student teaching, unless assigned additional duties such as serving as teacher assistant, substitute, or coach.
6. Student teachers may collect workers' compensation.
7. Student teachers are entitled to due process pursuant to the Fifth and Fourteenth Amendments of the United States Constitution.
8. Student teachers should have reasonable and periodic supervision but not necessarily constant and direct supervision.
9. Student teachers may discipline students in North Carolina but may not administer corporal punishment.
10. Student teachers are responsible for their own negligent acts; however local school boards may indemnify student teachers for their legal liability.

11. Student teachers in North Carolina may have access to student records.

Recommendations

Based upon the results of this study, the following recommendations are presented :

1. Each state should provide some specific definitive guidelines for student teaching in their clinical experiences in the public schools.

2. Local school board should enter into a written contractual agreement providing for the use of undergraduate student teachers with the accredited college or university. The contractual agreement should provide the same legal status and protection of the laws for student teachers as for regular certified teachers employed in the local school system. The agreement should also provide due process if the student teacher is dismissed from the student teaching experience by the local school board.

3. Student teacher should have full and complete access to pupil records.

4. Student teachers should not administer or be directed to administer any form of corporal punishment.

5. The writer recommends that student teachers should not be used as substitute teachers while doing their clinical experience. An analysis of the student teachers experience and maturity should be made before assigning additional duties such as serving as a substitute, teacher assistant, coaching or other extra-curricular duties for which financial compensation is considered.

Recommendations for Further Study

This study was an analysis of state statutes and case law within the public schools of North Carolina and the institutions of higher education of the University of North Carolina system, concerning student teaching in North Carolina. A number of interesting areas not addressed in this study were located during the review of literature and the review of statutes and court cases. Areas of possible further study might be (a) the length of time an individual should spend during their internship; (b) a study of administrative policies, rules and regulations of administrative agencies of both federal and state governments concerning student teaching; and (c) the Attorney General's decisions in the fifty states relevant to student teaching.

Bibliography

Books and Journals

- Abraham, Henry J. The Judiciary. 3d ed. Boston: Allyn Bacon, 1973.
- Allen, Cecil H. Legal Principles Governing Practice Teaching in State Teachers Colleges, Normal Schools, and Public Schools. Nashville: George Peabody College for Teachers, 1937.
- Anderson, Bobby D. The Law and the Teacher in Mississippi. Jackson: University Press of Mississippi, 1975.
- Anderson, Bobby D. "Legal Status of Student Teachers as a Specific Problem in School Administration." Critical Issues in School Law. Topeka: The National Organization on Legal Problems of Education, 1970.
- Barnes, Gary T. , Charles Bass, and Mary Wakeford. Teacher Supply and Demand in North Carolina Public Schools. Chapel Hill: University of North Carolina, 1986.
- Black, D. Cooperating Teacher Renumeration: Where Are We? Reston, Va.: Association of Teacher Education, 1980.
- Bolmeier, E.C. The School in the Legal Structure. 2d ed. Cincinnati: W.H. Anderson, 1975.
- Brink, William G. "The Administration of Student Teaching in Universities which used Public Schools." Educational Administration and Supervision. October, 1949.
- Butts, Freeman and, Laurence Cremin. A History of Education in American Culture. New York: Holt, Reinhart and Winston, 1953.
- Cohen, Morris L. Legal Research in a Nutshell. St. Paul: West Publishing Co., 1971.
- Cubberly, Ellwood. Readings in History of Education. New York: Houghton Mifflin Co, 1920.
- Dillon-Peterson, Elizabeth. "Student Teaching: Problems and

- Promising Practices. Texas Research and Development Center for Teacher Education, January, 1982.
- Edwards, Newton. The Courts and the Public Schools. Chicago: University of Chicago Press, 1955.
- Farnsworth, E. Allen. An Introduction to the Legal System of the United States. New York: Oceania Publications, 1963.
- Gatti, Richard D., and David J. Gatti. Encyclopedic Dictionary of School Law. West Nyack, N.Y.: Parker, 1975.
- Gray, John Chipman. The Nature and Sources of the Law. 2d ed. Gloucester, Mass.: Peter Smith, 1972.
- Haberman, M., and P. Harris. "State Requirements for Cooperating Teachers." Journal of Teacher Education. Spring 1982.
- Hazard, William R. Student Teaching and the Law. Washington, D.C.: ERIC Clearinghouse on Teacher Education, 1976.
- Hoffman, Earl. "Student Teaching and the Law." In Teacher Education: Trends, Issues, Innovations, eds. Lowell Horton and Phyllis Horton. Danville, Ill.: Interstate Printers and Publishers, 1974.
- Longstreth, Larry E., and Bob L. Taylor. "Student Teaching: A Legal Vacuum." The Journal of Teacher Education. Spring 1971.
- Mead, Arthur Raymond. Supervised Student Teaching. Richmond: Johnson Publishing Co., 1930.
- National Organization on Legal Problems of Education. Critical Issues in School Law. Topeka: National Organization on Legal Problems of Education, 1970.
- Nolte, M. Chester, and John Linn. School Law for Teachers. Danville, Ill.: Interstate Printers and Publishers, 1966.
- Peach, Larry, and Thomas L. Riddick. "Helping Student Teachers Avoid Adverse Legal Action." Tennessee Education. Spring 1984.
- Salmon, Richard G. "Student Teaching Handbook." Virginia Polytechnic Institute and State University. Blacksburg: VPI and SU, 1976.

- Sietz, Reynolds C. Law and the School Principal. Cincinnati: W.H. Anderson, 1961.
- Smith, Michael R. Law and the North Carolina Teacher. Danville, Ill.: Interstate Printers and Publishers, 1975.
- Stinnett, T.M. A Manual on Standards Affecting School Personnel in the United States. Washington, D.C.: National Education Association, 1974.
- Swalls, Fred. Legal Aspects of Student Teaching. Danville, Ill.: Interstate Printers and Publishers, 1966.
- Swalls, Fred. The Law on Student Teaching in the United States. Danville, Ill.: Interstate Printers and Publishing, 1976.
- Tieszen, D. W., and, Charles Foreman. "Legal Responsibilities of Student Teachers." The Journal of Teacher Education. June 1961.
- Tieszen, D. W., and, Charles Foreman. "Student Teaching: Some Legal Considerations." The Journal of Teacher Education. June 1961.
- Wesley, Edgar. NEA The First Hundred Years. New York: Harper and Brothers, 1957.
- Williams E.I.F. The Actual Potential Use of Laboratory Schools. N. Y.: Bureau of Publications, Teachers College, Columbia Univ., 1942.
- Wiggins, Sam P. The Student Teacher in Action. Boston: Allyn and Bacon, 1947.
- Woellner, E.H. Requirements for Certification. Chicago: University of Chicago Press, 1974.
- Wood Craig R. the Current Legal Status of Student Teaching in the United States. ERIC Document ED 127-283. December, 1976.

Unpublished Sources

- Barkley, David Stanford. "The Legal Status of Student Teaching." Ed. D. diss., Duke University, 1959.
- Farmer, Donald E. "The Legal Status of Student Teaching in Forty Seven Selected States." Ed. D. diss., University of Kansas, 1965.
- Johnston, Stanley L. "The Legal Aspects of Student Teaching." Ed. D. diss., University of North Dakota, 1964.
- Jones, Franklin P. "Legal Aspects of Student Teaching in the United States." Ed. D. diss., University of Mississippi, 1967.
- Karakas, Louis John. "The Legal Status of Student Teachers in North Dakota." Ed. D. diss., University of North Dakota, 1969.
- Rose Carl. ed. "Providing Legal Status for Student Teachers." Washington, D.C.: Association of Teacher Educators, 1974.
- Ruff, Otto G. "Implementation of the Cooperative Teacher Education Act of 1973," 1973.

Legal Research Aids

American Digest System. St. Paul, Minnesota: West Publishing Company.

Century Digest. 1903. Digest of all reported cases from 1658 to 1896.

First Decennial Digest. 1910. Digest of all reported cases from 1897 to 1906.

Second Decennial Digest. 1922. Digest of all reported cases from 1906 to 1916.

Third Decennial Digest. 1929. Digest of all reported cases from 1916 to 1926.

Fourth Decennial Digest. 1936. Digest of all reported cases from 1926 to 1936.

Fifth Decennial Digest. 1949. Digest of all reported cases from 1936 to 1946.

Sixth Decennial Digest. 1958. Digest of all reported cases from 1946 to 1956.

Seventh Decennial Digest. 1967. Digest of all reported cases from 1956 to 1966.

West's General Digest. Fourth series. Volumes 1 to 42. Digest of all reported cases from 1967 to 1976.

American Jurisprudence. Rochester, New York: The Lawyer's Co-operative Publishing Company.

American Law Reports. Rochester, New York: The Lawyer's Co-operative Publishing Company.

Black's Law Dictionary. Edited by Henry C. Black. St. Paul Minn.: West Publishing Company, 1969.

Corpus Juris Secundum. New York: The American Law Book Co.

National Reporter System. St. Paul, Minnesota: West Publishing Co. 1879 to present:

The Atlantic Reporter. Reports decisions of the courts last resort of Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont from 1885 to present.

The California Reporter. Reports decision by the California Supreme Court and lower courts of record for California from 1959 to present.

The Federal Reporter. Reports decisions by the United States District Courts and the United States Circuit Courts and other federal courts from 1880 to present.

The Federal Supplement. Reports decisions by the United States District Courts since 1932, Court of Claims from 1932 to 1960, and the United States Customs Courts since 1949.

The New York Supplement. Reports decisions by the New York Court of Appeals and lower courts of record in New York from 1888 to present.

The North Eastern Reporter. Reports decisions of the courts of last resort of Illinois, Indiana, Massachusetts, New York, and Ohio from 1888 to present.

The Pacific Reporter. Reports decisions of the courts of last resort of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Utah, Washington, and Wyoming from 1883 to present.

The South Eastern Reporter. Reports decisions of the courts of the last resort of Georgia, North Carolina, South Carolina, Virginia, and West Virginia from 1887 to present.

The Southern Reporter. Reports decisions of the courts of the last resort of Alabama, Florida, Louisiana, and Mississippi from 1887 to present.

The South Western Reporter. Reports decisions of the courts of last resort of Arkansas, Kentucky, Missouri, Tennessee, and Texas from 1886 to present.

Shepard's Reporter Citations. Colorado Springs, Colorado: Shepard's Citations, Inc.

State Statutes Consulted

Alabama, Code of Alabama.

Alaska, Alaska Statutes.

Arizona, Arizona Revised Statutes.

Arkansas, Arkansas Statutes.

California, West's Annotated California Codes.

Colorado, Colorado Revised Statutes.

Connecticut, Connecticut General Statutes, Annotated.

Delaware, Delaware Code, Annotated.

District of Columbia, District of Columbia Code.

Florida, Florida Statutes.

Georgia, Official Code of Georgia.

Hawaii, Hawaii Revised Statutes.

Idaho, Idaho Code.

Illinois, Illinois Annotated Statutes.

Indiana, Indiana Statutes.

Iowa, Iowa Code.

Kansas, Kansas Statutes, Annotated.

Kentucky, Kentucky Revised Statutes.

Louisiana, Louisiana Revised Statutes.

Maine, Maine Revised Statutes Annotated.

Maryland, Annotated Code of Maryland.

Massachusetts, Annotated Laws of Massachusetts.

Michigan, Michigan Statutes Annotated.

Minnesota, Minnesota Statutes Annotated.

Mississippi, Mississippi Code.

Missouri, Annotated Missouri Statutes.

Montana, Montana Revised Code.

Nebraska, Revised Statutes of Nebraska.

Nevada, Nevada Revised Statutes.

New Hampshire, New Hampshire Revised Statutes Annotated.

New Jersey, New Jersey Revised Statutes.

New Mexico, New Mexico Statutes.

New York, Education Law.

North Carolina, General Statutes of North Carolina.

North Dakota, North Dakota Century Code.

Ohio, Ohio Revised Code, Annotated.

Oklahoma, Oklahoma Statutes.

Oregon, Oregon Revised Statutes.

Pennsylvania, Pennsylvania Statutes, Annotated.

Rhode Island, General Laws of Rhode Island.

South Carolina, Code Laws of South Carolina.

South Dakota, South Dakota Codified Laws.

Tennessee, Tennessee Code, Annotated.

Texas, Vernon's Texas Statutes and Codes.

Utah, Utah Code Annotated.

Vermont, Vermont Statutes, Annotated.

Virginia, Code of Virginia.

Washington, Revised Code of Washington, Annotated.

West Virginia, West Virginia Code.

Wisconsin, Wisconsin Statutes, Annotated.

Wyoming, Wyoming Statutes.

Cases Consulted

Badger v. Hoidale. 88 F2d 208 (1937).

Baker v. Owen. 395 F. Supp. 294 96 S.Ct. 210 (1975).

Board of Regents v. Roth. 408 U.S. 564 (1972).

Brundage v. Peters. 137 N.E. 118 (1922).

Clay v. Independent School District of Cedar Falls. 174 N.W. 47 (1919).

Denver Public Schools v. DeAvila. 544 P2d 627 (1976).

Goss v. Lopez. 419 U.S. 565 (1975).

Horowitz v. Board of Curators of the University of Missouri. 538 F2d 1317 (1976).

Ingraham v. Wright. 525 F2d 909 (1974), 45 U.S.L.W. 4364 (1977).

James v. West Virginia Board of Regents. 322 F. Supp. 217 (1971).

Keyishian v. Board of Regents of Univ. of State of N.Y. 385 U.S. 589, 87

S.Ct. 675 (1967).

Lai v. Board of Trustees of East Carolina University. 330 F. Supp. 904 (1971).

Leddy V. Cornell. 120 P. 153 (1912).

Lindblad v. Board of Education. 77 N.E. 450 (1906).

Maurice v. Orleans Parish School Board. La. App. 295 So.2d 184 (1974).

Moore v. Gaston Board of Education. 357 F. Supp. 1037 (1973).

Morrissey v. Brewer. 408 U.S. 471 (1972).

Speeden v. Board of Education. 81 S.E. 724 (1914).

State on Complaint of Schmidt v. Krull. 43 N.W. 2d 241 (1950).

Stovall v. Solomon. La. App. 85 So. 2d. 551 (1957).

Stull v. Russo. La. App. 85 So. 2d. 112 (1956).

State Department of Education Documents Consulted

Alaska. Alaska Department of Education Rules and Regulations.

California. "Teacher Education Guidelines, for Elementary and Secondary Schools."

District of Columbia. "Memorandum of Understanding for the District of Columbia Public Schools and Universities."

Georgia. "Guidelines for Competency-Based Education."

Hawaii. "Department of Education Policies."

Iowa. Iowa Administrative Code.

Kansas. Kansas Administrative Regulations.

Michigan. "Administrative Rules Governing the Certification of Michigan Teachers.

Minnesota. "Department of Education Regulations."

Missouri. Missouri Student Teaching Certificate.

Montana. School Laws of Montana.

New Mexico. State Board of Education Regulations.

Ohio. "Guidelines for Colleges and Universities Preparing Teachers."

Wisconsin. Wisconsin Administrative Code.

State Statutes Found by the Writer

Alabama

§ 16-23-16. Rules and regulations relative to training.

All laws and all rules and regulations of the state board of education relating to the preparation of teachers for service or the training of teachers in service shall be administered by the state superintendent of education, or through his professional assistants; provided, that the provisions of this section shall not be interpreted as being in conflict with other provisions of this title. (School Code 1927, § 366; Code 1940, T. 52, § 349.)

Arizona

§ 15-1651. Teacher training schools

A. Every teacher training school established in connection with the state universities shall be a part of the school system and a branch of the school district within which the training school is located.

B. Training schools shall be governed by the laws and regulations relating to schools except as otherwise provided in this article.

C. Students in the state universities may, under rules prescribed by the Arizona board of regents, teach in the training schools and other schools without being certificated teachers.

Added by Laws 1981, Ch. 1, § 2, eff. Jan. 23, 1981. Amended by Laws 1982, Ch. 229, § 8.

Arkansas

6-17-305. Student teachers.

(a) Any primary or secondary school which has been accredited by the Department of Education may be entitled to assignments of student teachers from institutions of higher learning in this state, irrespective of accreditation by any other agency, private or public.

(b) Any county board of education or district school board desiring to cooperate with any tax-supported institution of higher learning, one (1) of whose functions is the training of teachers, is authorized to enter into contract with the board of trustees of the institution for the operation and maintenance of a public school, grades one (1) to twelve (12) or any part thereof, located in the county, to be used for training school purposes by the institution.

(c) The district school boards in this state are authorized to enter into contracts with colleges and universities for the use of student teachers in the public schools.

(d) The State Board of Education, by rules and regulations, may approve students authorized by the college to do student teaching.

(e) Student teachers in the public schools shall, while engaged in the performance of their student teaching duties, enjoy the same immunities provided by law for teachers in the public schools.

California

CHAPTER 1. EXCHANGE OF TEACHING PERSONNEL

§ 10000. Personnel exchange agreements; contracts assigning certificated personnel

(a) Notwithstanding any other provision of law, the Trustees of the California State University and any school district or community college district may enter into an agreement for the exchange of personnel between the state university and the district.

. . .

(b) The governing board of any school district, or community college district, a county board of education, or the State Department of Education may execute a contract with any California teacher-training institution whereby certificated personnel of the school district, county, or the State Department of Education may be assigned to the teacher-training institution for full-time or part-time duty for a period not to exceed one year.

(c) Any teacher-training institution in California may execute a contract with the governing board of any school district, or community college district, a county board of education, or the State Board of Education whereby certificated personnel of the institution may be assigned to school districts, community college districts, county boards of education, or the State Department of Education for full-time or part-time duty for a period not to exceed one year.

(d) Any such contract shall provide for the payment, by the entity to which a person is assigned to the employer, of a sum equivalent to the salary and other employment costs of the employee. In place of that payment, the contract may provide for the exchange of certificated personnel between the district, county, or State Department of Education and the teacher-training institution. Any such employee shall retain his or her status as an employee of the school district, community college district, county, State Department of Education, or teacher-training institution from which he or she is assigned in all respects during the period of the assignment.

(Amended by Stats.1983, c. 143, § 6; Stats.1987, c. 1452, § 71.)

§ 13160. Practice teaching

Practice teaching shall be of the same kind in the same grades, classes, or types of schools as specified in the recommendation.

(Stats.1959, c. 2, p. 916, § 13160.)

Colorado

22-62-102. Legislative declaration. The general assembly hereby declares that the purpose of this article is to implement cooperative ventures in teacher education between public and private schools and institutions of higher education, to establish the legal status of students of teaching, and to enable the release of public moneys to finance such ventures.

Source: L. 73, p. 1317, § 1; C.R.S. 1963, § 123-45-2.

22-62-105. Authority and status of student teachers. (1) Any student teacher, during the time that such student is assigned to a field experience within a public school, shall be deemed to be a public employee of the school district within the meaning of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S. The duties and responsibilities of the student teacher shall be determined by mutual agreement between the school district and the authorized representative of the college.

(2) The student teacher, during his practice teaching in a school, shall be deemed an employee of the school district for the purpose of workmen's compensation and liability insurance as provided for other school employees.

Source: Amended, L. 75, p. 729, § 4; (2) amended, L. 81, p. 462, § 3.

Connecticut

§ 10-235. Indemnification of teachers, board and commission members and employees in damage suits; expenses of litigation

(a) Each board of education shall protect and save harmless any member of such board or any teacher or other employee thereof or any member of its supervisory or administrative staff, and the state board of education, the commission for higher education, the board of trustees of each state institution and each state agency which employs any teacher, and the managing board of any public school, as defined in section 10-161, shall protect and save harmless any member of such board or commission or any teacher or other employee thereof or any member of its supervisory or administrative staff employed by it, from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to or death of any person, or in accidental damage to or destruction of property, within or without the school building, or any other acts, including but not limited to infringement of any person's civil rights, resulting in any injury, which acts are not wanton, reckless or malicious, provided such teacher, member or employee, at the time of the acts resulting in such injury, damage or destruction, was acting in the discharge of his duties or within the scope of his employment or under the direction of

such board of education, the commission for higher education, board of trustees, state agency, department or managing board. For the purposes of this section, the terms "teacher" and "other employee" shall include any student teacher doing practice teaching under the direction of a teacher employed by a town board of education or by the state board of education or commission for higher education, any volunteer approved by a board of education to carry out a duty prescribed by said board and under the direction of a certificated staff member, and any member of the faculty or staff or any student employed by The University of Connecticut Health Center or health services.

Delaware

§ 1252. Format of special institute program.

The general format for the special institute shall include the following:

(1) For the individual seeking certification in a secondary content area which corresponds to the major field of study in the bachelor's program, it is intended that 1 summer of courses in the special institute; one-half year (1 semester) of student teaching, or 1 year of supervised, full-time teaching experience in a Delaware public school; and additional coursework as necessary constitute the program of study leading to the initial standard certificate. A provisional or limited standard certificate whichever is applicable, shall be issued to the person employed to complete the 1 year of full-time teaching experience in lieu of student teaching.

(2) For individuals seeking certification in elementary or special education, it is intended that 2 summers of courses in the special institute (immediately before and after a student teaching experience or 1 year full-time teaching experience); one-half year of student teaching or 1 year of supervised, full-time teaching experience in a Delaware public school and additional coursework as necessary constitute the program of study leading to the initial standard certificate. A provisional certificate shall be issued to the person employed to complete the 1 year of full-time teaching experience in lieu of student teaching. (65 Del. Laws, c. 473, § 1)

Florida

(9) **Instructional personnel.**— "Instructional personnel" shall mean any member of the instructional staff as defined by regulations of the state board and shall be used synonymously with the word "teacher" and shall include teachers, librarians, and others engaged in an instructional capacity in the schools. A student who is enrolled in an institution of higher education approved by the state board for teacher training and who is jointly assigned by such institution of higher education and a school board to perform practice teaching under the direction of a regularly employed and certificated teacher shall be accorded the same protection of the laws as that accorded the certificated teacher while serving such supervised internship, except for the right to bargain collectively with the employees of the school board.

Georgia

20-2-833. Additional payments to supervisors of student teachers.

(a) As used in this Code section, the term:

(1) "Student teaching" means the full-time component of a teacher education program in which a student preparing for the education profession is jointly assigned by a teacher education institution and a school system for classroom experience and which is designated in a teacher education program approved by the Department of Education as student teaching or internship.

Idaho

33-1201. Certificate required. — Every person who is employed to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian shall be required to have and to hold a certificate issued under authority of the state board of education, valid for the service being rendered; except that the state board of education may authorize endorsement for use in Idaho for not more than five (5) years, certificates valid in other states when the qualifications therefor are not lower than those required for an Idaho certificate.

No certificate shall be required of a student attending any teacher training institution, who shall serve as a practice teacher in a classroom under the supervision of a certificated teacher, and who is jointly assigned by such teacher-training institution and the governing board of a district or a public institution, and approved by the state board of education, to perform practice teaching in a non-salaried status. Those students attending a teacher-training institution of another state and who serve as a non-salaried practice teacher in an Idaho school district shall be registered by that school district and approved by the state board of education.

A student, while serving as a practice teacher under the supervision of a certificated teacher, shall be accorded the same liability insurance coverage by the school district being served as that accorded a certificated teacher in the same district, and shall comply with all rules and regulations of the school district or public institution while acting as such practice teacher. [1963, ch. 13, § 143, p. 27; am. 1975, ch. 45, § 1, p. 84.]

Illinois

21-3. Elementary certificate

§ 21-3 Elementary certificate. An elementary school certificate shall be valid for 4 years for teaching in the kindergarten and lower 9 grades of the common schools. Subject to the provisions of Section 21-1a, it shall be issued to persons who

have graduated from a recognized institution of higher learning with a bachelor's degree and with not fewer than 120 semester hours and with a minimum of 16 semester hours in professional education, including 5 semester hours in student teaching under competent and close supervision. Such persons shall be recommended for the elementary certificate by a recognized institution as having completed an approved program of preparation which includes intensive preservice training in the humanities, natural sciences, mathematics and the academic and professional courses approved by the State Superintendent of Education in consultation with the State Teacher Certification Board.

Amended by P.A. 81-1188, § 1, July 1, 1981; P.A. 84-126, Art. IV, § 2, eff. Aug. 1, 1985.

Indiana

20-5-10-1 [28-4406]. School corporation agreements with accredited institutions of higher education—Student teaching experience.—Public school corporations are authorized to enter into agreements with institutions of higher education accredited by the training and licensing commission of Indiana, for the purpose of providing teaching experience for students thereof preparing for the educational profession and for the services of persons working jointly for any such school corporation and any such institution. [Acts 1969, ch. 246, § 1, p. 972.]

Title of Act. The title of Acts 1969, ch. 246, reads: "An act concerning student teachers and other persons jointly assigned to a school corporation by an accredited educational institution and the school corporation." In force August 18, 1969.

Cross-References. Laboratory schools of state universities, 20-12-13-1—20-12-13-5.

Teacher training courses offered by accredited schools, 20-6-1-5.

20-5-10-2 [28-4407]. Contents.—Each such agreement shall set out the responsibilities and rights of such public school corporations, such institutions, and such students or other persons. [Acts 1969, ch. 246, § 2, p. 972.]

Iowa

260.27 Student teachers' certificates

Whenever the conditions prescribed by the board of educational examiners for issuance of any type or class of certificate provide that the applicant shall have completed work in student teaching it shall be lawful for any accredited college or university located within the state of Iowa and states coterminous with Iowa and offering a program or programs of teacher education approved by said board of educational examiners of Iowa or states coterminous with Iowa to enter into a written contract with any approved school district or private school, under such terms and conditions as may be agreed upon by such contracting parties. Students actually engaged under the terms of such contract, shall be entitled to the same protection, under the provisions of section 613A.8, as is afforded by said section to officers and employees of the school district, during the time they are so assigned.

Added by Acts 1970 (63 G.A.) ch. 1111, § 1.

Kansas

72-1392. Student teaching certificates; contracts for student teachers; cost. The board of education of any school district may enter into contracts with colleges and universities for the use of student teachers in the public schools. The state board of education, by rules and regulations, shall provide for the issuance of student teaching certificates and may authorize persons holding such student teaching certificates to assume responsibilities of teachers in schools within limitations prescribed by the state board. Student teaching certificates shall be issued without the charge of any fee or cost by the state board of education. [L. 1970, ch. 278, § 1; L. 1971, ch. 226, § 1; July 1.]

Kentucky

161.042. Status of student teachers — Responsibility to administrative staff and supervising teachers. — (1) The state board of education shall provide through regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the state board of education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he is assigned.

(4) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district. (Enact. Acts 1972, ch. 178, § 2; 1978, ch. 155, § 82, effective June 17, 1978; 1982, ch. 11, § 1, effective July 15, 1982.)

Maryland

§ 6-108. Student teachers and student interns.

(a) *Agreements between county boards and institutions of higher education.* — A county board may make an agreement or financial arrangement with an institution of higher education that has been approved under § 2-206 of this article, to provide classroom or administrative office experience for student teachers and student interns.

(b) *Supervising teachers.* — The institution of higher education and the county board where the student teaching center program is adopted shall:

(1) Approve or select jointly the supervising teachers, who are employees of the county board, to serve in the program; and

(2) Adopt an agreed, continuing, in-service improvement program for the supervising teachers.

(c) *Authority of student teachers.* — (1) While the student teacher is assigned as a student teacher, he shall be given the same authority as if he were a certificated employee of the county board to which he is assigned.

(2) The authority of the student teacher extends to:

(i) Every aspect of student management or discipline;

(ii) The handling of records of students; and

(iii) Any other aspect of authority granted to a certificated employee of a county board.

(d) *Agents for purposes of liability insurance and workmen's compensation.* — Student teachers and student interns are considered agents of the county board for the limited purposes of:

(1) Comprehensive liability insurance coverage under § 4-105 of this article; and

(2) Workmen's compensation coverage under Article 101, § 21 of the Code, but this coverage is not to exceed the salary of a first year teacher in the county school system. (An. Code 1957, art. 77, §§ 112B, 116B; 1978, ch. 22, § 2.)

Mississippi

CHAPTER 132 [New]

Student Teachers

Sec.

37-132-1. Definitions.

37-132-3. Responsibility of cooperating teacher.

37-132-5. Powers and duties of student teacher.

§ 37-132-1. Definitions.

As used in this chapter, "student teacher" or "intern" shall mean a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator. Whenever in this chapter "board of education" is referred to and the school that a student teacher or intern is assigned to does not have a board of education, such term shall refer to the person or governing body that administers such school.

SEC. 132-1: Laws, 1973, ch. 343, § 1(a), eff. from and after passage (approved March 22, 1973).

Missouri

168.021. Issuance of licenses

Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board of education, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(c) To each student completing in a satisfactory manner at least a two-year course in a city training school as provided for in section-178.410, RSMo.

(2) By the Missouri state colleges, state teachers' colleges, the University of Missouri and Lincoln University to graduates receiving the degree of bachelor of science in education, a life teaching certificate bearing the signature of the commissioner of education and which shall be registered in the state department of education.

(3) By the county superintendents of schools upon the basis of examination as provided in section 168.041, a county certificate entitling the holder to teach only in the county of issuance for a period of one year. (L.1963 p. 281 § 9-2)

Montana

20-4-101. System of teacher and specialist certification — student teacher exception. (1) In order to establish a uniform system of quality education and to ensure the maintenance of professional standards, a system of teacher and specialist certification shall be established and maintained under the provisions of this title and no person shall be permitted to teach in the public schools of the state until he has obtained a teacher certificate or specialist certificate or the district has obtained an emergency authorization of employment from the state.

(2) The above certification requirement shall not apply to a student teacher who is hereby defined as a student enrolled in an institution of higher learning approved by the Board of regents of higher education for teacher training and who is jointly assigned by such institution of higher learning and the governing board of a district or a public institution to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated teacher.

(3) A student teacher, while serving such nonsalaried internship under the supervision of a certificated teacher, shall be accorded the same protection of the laws as that accorded a certificated teacher and shall, while acting as such student teacher, comply with all rules of the governing board of the district or public institution and the applicable provisions of 20-4-301 relating to the duties of teachers.

History: En. 75-6901 by Sec. 71, Ch. 5, L. 1971; amd. Sec. 1, Ch. 396, L. 1973; R.C.M. 1947, 75-6001; amd. Sec. 4, Ch. 511, L. 1979.

Nebraska

(g) STUDENT TEACHER OR INTERN

79-1287 to 79-1295. Repealed. Laws 1987, LB 524, § 3.

79-1296. Repealed. Laws 1969, c. 727, § 2.

79-1297. Student teacher or intern, defined. As used in sections 79-1297 to 79-12,100, student teacher or intern shall mean a student enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator. Student-teaching may include duties granted to a certificated teacher under the rules and regulations of such board of education and any other part of the school program for which either the cooperating teacher or the principal is responsible.

Source: Laws 1971, LB 175, § 1.

79-1298. Student teacher or intern; protection; rules and regulations; comply. A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator and shall, while acting as such student teacher or intern, comply with all rules and regulations of the local board of education and observe all duties assigned certificated teachers.

Source: Laws 1971, LB 175, § 2.

79-1299. Student teacher or intern; responsibilities and duties. It shall be the responsibility of a cooperating teacher in cooperation with the principal or other administrator and the representative of the teacher preparation institution, to assign to the student teacher or intern responsibilities and duties that will provide adequate preparation for teaching.

Source: Laws 1971, LB 175, § 3.

79-12,100. Student teacher or intern; terms, defined. Whenever in sections 79-1297 to 79-12,100 board of education is referred to and the school that a student teacher or intern is referred to does not have a board of education, such term shall be the person or governing body that administers such school.

Source: Laws 1971, LB 175, § 4.

New Jersey

18A:16-6. Indemnity of officers and employees against civil actions

Whenever any civil action has been or shall be brought against any person holding any office, position or employment under the jurisdiction of any board of education, including any student teacher or person assigned to other professional pre-teaching field experience, for any act or omission arising out of and in the course of the performance of the duties of such office, position, employment or student teaching or other assignment to professional field experience, the board shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom; and said board may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.

Amended by L.1977, c. 216, § 1, eff. Sept. 13, 1977.

New Mexico

77-8-1.2. Certificate requirement—Types of certificates—Forfeiture of claim—Exception.—A. Any person teaching, supervising an instructional program, counseling or providing special instructional services in a public school or state agency and any person administering in a public school shall hold a valid certificate authorizing the person to perform that function.

B. All certificates issued by the state board shall be standard certificates except that the state board may issue substandard and substitute certificates under certain circumstances. If a local school board or the governing authority of a state agency certifies to the state board that an emergency exists in the hiring of a qualified person, the state board may issue a substandard certificate to a person not meeting the requirements for a standard certificate. The state board may also issue a substitute certificate to a person not meeting the requirements for a standard certificate to enable the person to perform the functions of a substitute teacher pursuant to the regulations of the state board. All substandard and substitute certificates issued shall be effective for only one [1] school year. No person under the age of eighteen [18] years shall hold a valid certificate, whether a standard, substandard or substitute.

C. Any person teaching, supervising an instructional program, counseling or providing special instructional services in a public school or state agency and any person administering in a public school without a valid certificate after the first three [3] months of the school year shall thereafter forfeit all claim to compensation for services rendered.

D. This section shall not apply to a person performing the functions of a practice teacher as defined in the regulations of the state board.

History: C. 1953, § 77-8-1.2 enacted by Laws 1975, ch. 306, § 3.

Cross-References:
Power of state board, 77-2-2.

New York

§ 3001. Qualifications of teachers

No person shall be employed or authorized to teach in the public schools of the state who is:

1. Under the age of eighteen years.
2. Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in a state college for teachers or state teachers college of this state.

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class

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without the presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be diminished by reason of the presence of cadet teachers.

3. Not a citizen. The provisions of this subdivision shall not apply, however, to an alien teacher now or hereafter employed, provided such teacher shall make due application to become a citizen and thereafter within the time prescribed by law shall become a citizen. The provisions of this subdivision shall not apply, after July first, nineteen hundred sixty-seven, to an alien teacher employed pursuant to regulations adopted by the commissioner of education permitting such employment.

L.1947, c. 820; amended L.1967, c. 282, § 1; L.1973, c. 538, § 1.

North Carolina

§ 115C-309. Student teachers.

a) Student Teacher and Student Teaching Defined. — A "student teacher" is any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a local board of education to student-teach under the direction and supervision of a regularly employed certified teacher.

"Student teaching" may include those duties granted to a teacher by G.S. 115C-307 and 115C-390 and any other part of the school program for which either the supervising teacher or the principal is responsible.

b) Legal Protection. — A student teacher under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher.

c) Assignment of Duties. — It shall be the responsibility of a supervising teacher, in cooperation with the principal and the representative of the teacher-preparation institution, to assign to the student teacher responsibilities and duties that will provide adequate preparation for teaching. (1969, c. 638, s. 1; 1981, c. 423, s. 1.)

North Dakota

15-47-40. Cooperative agreements for student teaching and supervised field experiences. The school board of any public school district is hereby authorized to enter into cooperative agreements and financial arrangements for the use of the public schools of the school district for student teaching or supervised field experience with any teacher training institution. Any such agreement may provide for the payment by the institution for the services rendered by the school district of an amount not to exceed the actual cost to the school district for the services rendered by the school district and its employees.

Source: S.L. 1969, ch. 180, § 1.

15-47-42. Status and authority of student teachers. Any student teacher, during the time the student teacher is assigned as a student teacher, shall be given the same legal authority and status as if the student teacher were a certificated employee of the school district in which he is assigned. The authority of the student teacher shall extend to all aspects of student management or discipline, in the handling of confidential records of students, and in all other aspects of legal authority granted to certificated employees of the school districts in the state. The student teacher shall be deemed a certificated employee of the district with respect to acts performed by him at the direction, suggestion, or consent of the certificated employees under whose supervision and control the holder performs his duties, whether or not the duties are performed entirely in the presence of the employees of the district assigned to supervise the holder, and shall be deemed an employee of the school district within the meaning of sections 32-12.1-05 and 39-01-08 relating to liability insurance carried by political subdivisions.

Source: S.L. 1969, ch. 180, § 3; 1981, ch. 91, § 8.

Ohio

§ 3345.20 [Liability insurance for student teachers and students in teacher preparation programs.]

A. The board of trustees of a state college, university, or state affiliated college or university may procure a policy or policies insuring its student teachers against liability on account of damages or injury to persons or property, in respect to the acts of student teachers, occasioned by any incident occurring in the course of the performance of their duties during the period of their assignment to any school.

B. The board also may procure a policy or policies insuring its students participating in clinical or field-based teacher preparation experiences against liability on account of damages for injury to persons or property, including death by wrongful act, in respect to the acts of such students occasioned by

any incident occurring in the course of the preparation experiences and during the period of their assignment to any school or other entity.

(C) No person shall be covered under an insurance policy, as permitted by this section, if such person acts:

- (1) Manifestly outside the scope of employment or official responsibility;
- (2) With malicious purpose;
- (3) In bad faith; or
- (4) In wanton or reckless manner.

HISTORY: 133 v. S. 54 (Eff. 11-17-69); 140 v. H. 396 (Eff. 4-10-84).

Oklahoma

70 § 1-116

SCHOOL CODE

Ch. I

§ 1-116. Positions in school system—Definitions

Except as otherwise provided herein, the following positions in school districts shall have the meanings indicated:

1. **Teacher:** Any person who is employed to serve as district superintendent, county superintendent, principal, supervisor, counselor, librarian, school nurse or classroom teacher, or in any other instructional, supervisory, or administrative capacity, is defined as a teacher. Such person shall not be deemed qualified unless he or she holds a valid certificate, issued by and in accordance with the rules and regulations of the State Board of Education, to perform the particular services for which he or she is employed.

2. **Superintendent:** A district superintendent of schools shall be the executive officer of the board of education and the administrative head of the school system of a district maintaining an accredited high school, provided he holds an administrator's certificate recognized by the State Board of Education.

3. **Principal:** A principal shall be any person other than a district superintendent of schools having supervisory or administrative authority over any school or school building having two or more teachers. A teaching principal shall be a principal who devotes at least one-half the time school is in session to classroom teaching. Provided, teaching principals shall not be required to hold administrative certificates.

4. For purposes of complying with the State Aid Law¹ and other statutes which apportion money on the basis of teaching units or the number of teachers employed or qualified, all persons holding proper certificates and connected in any capacity with the instruction of pupils shall be designated as "teachers."

5. **Student Teacher:** A student teacher is any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving a nonsalaried internship under the supervision of a certified teacher, shall be accorded the same protection of the laws as that accorded the certified teacher.

Laws 1971, c. 281, § 1-116, eff. July 2, 1971.

¹Section 18-1-1 et seq. of this title.

Pennsylvania

§ 20--2006. Practice teaching

Each college shall provide practice teaching facilities so organized and administered that those students of the college who are preparing for the teaching profession shall acquire therein a practical knowledge of the art of teaching under the instruction and supervision of their proper teachers. It shall be lawful for the board of trustees of any college and the board of school directors of any district to enter into

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 an agreement between such board of trustees and board of school directors by which all or part of the pupils of such school district may be instructed in the training school in such college upon terms mutually agreeable to the board of trustees and the board of school directors concerned. It also shall be lawful for the board of trustees of any college and the board of school directors of any district or districts to enter into an agreement, upon terms mutually satisfactory, in accordance with which all or part of the classes of such district or districts may be available for practice teaching facilities for the students of such college. Such actions of the school district or school districts and the boards of trustees of such colleges shall be entered respectively upon the minutes of the respective boards and must be approved by the Superintendent of Public Instruction. The board of trustees of any college may provide for the transportation of students of the college to and from the place or places where such practice teaching facilities are available. 1949, March 10, P.L. 30, art. XX, § 2006; 1961, Sept. 12, P.L. 1258, § 1.

South Dakota

13-53-8. Contract with school board for educational services. The board of regents and any school board of this state shall have the power to enter into a contract or contracts, for such consideration as may be agreed upon, whereby any state educational institution under the control of the board of regents, having a department for the practice and training of teachers may contract for educational services for children of the district.

Tennessee

49-5-5604. Student teaching requirements. -- A student shall spend a significant portion of three (3) academic quarters involved in classroom observation and teaching. Such observation shall begin in the sophomore year (unless the student shall have transferred from a two (2) year institution with which the teacher training institution has a transfer agreement, but which two (2) year junior or community college has no programs of classroom observation or student teaching). Each student shall be assigned to a tenured teacher for guidance, evaluation and instruction. [Acts 1984 (1st E.S.), ch. 7, § 68.]

Oregon

342.980 Student teacher; authority to teach; contract requirements and effect. Any student of a teacher education institution approved by the Teacher Standards and Practices Commission, who is assigned to teach in a training school has full authority to teach during the time the student is so assigned, and such assignment has the same effect as if the student were the holder of a valid teaching certificate. [Formerly 342.575; 1967 c.67 §15; 1973 c.270 §17]

342.982 [1977 c.655 §7; renumbered 342.495]

342.990 [Repealed by 1965 c.100 §456]

South Carolina

§ 59-26-20. Duties of State Board of Education and Commission on Higher Education.

The State Board of Education, through the State Department of Education, and the Commission on Higher Education shall:

(a) Develop and implement a plan for the continuous evaluation and upgrading of standards for program approval of undergraduate and graduate education training programs of colleges and universities in this State.

(b) Adopt policies and procedures which result in visiting teams with a balanced composition of teachers, administrators and higher education faculties.

(c) Establish program approval procedures which shall assure that all members of visiting teams to review and approve undergraduate and graduate education programs have attended training programs in program approval procedures within two years prior to service on such teams.

(d) Render advice and aid to departments and colleges of education concerning their curricula, program approval standards and results on the examinations provided for in this chapter.

(e) Adopt program approval standards so that beginning with the 1982-83 school year all colleges and universities in this State that offer undergraduate degrees in education shall require that students successfully complete the basic skills examination that is developed in compliance with this act before final admittance into the undergraduate teacher education program. These program approval standards shall include but not be limited to the following:

- (1) A student may initially take the basic skills examination during his first or second year in college.
- (2) Students may be allowed to take the examination no more than three times.
- (3) If a student has not passed the examination, he may be conditionally admitted to a teacher education program. Such admittance shall not exceed one year. If he has not passed the examination within one year of the conditional admittance he shall not continue in the teacher education program.

Provided, that in addition to the above approval standards, beginning in 1984-85, additional and upgraded approval standards must be developed, in consultation with the Commission on Higher Education, and promulgated by the State Board of Education for these teacher education programs.

(f) Administer the basic skills examination provided for in this section two times per year.

(g) Report the results of the examination to the colleges, universities and student in such form that he will be provided specific information about his strengths and weaknesses and given consultation to assist in improving his performance.

(h) Adopt program approval standards so that beginning with the 1982-83 school year all colleges and universities in this State that offer undergraduate degrees in education shall require that students pursuing courses leading to

South Carolina

teacher certification successfully complete one semester of student teaching and other field experiences and teacher development techniques directly related to practical classroom situations.

(i) Adopt program approval standards whereby each student teacher shall be evaluated at least three times by a representative of the college or university in which the practice teacher is enrolled. The evaluation instrument to be used shall be the instrument developed for this purpose in compliance with § 59-26-30. All observers who use the evaluation instrument shall receive reliability training. The college or university in which the practice teacher is enrolled shall make available assistance, training and counseling to the student teacher to overcome the identified deficiencies.

Texas

§ 11.311. Local Cooperative Teacher Education Centers

(a) To provide college students facilities, additional instructional materials required for student teachers, and supervision for student teaching required by law as prerequisites to the issuance of a valid Texas certificate for the appropriate position, it is necessary that joint responsibility among the colleges and universities approved for teacher education by the Commission on Standards for the Teaching Profession of this state, the Texas public school districts, and the State of Texas be hereby established.

(b) The Commission on Standards for the Teaching Profession, with the assistance of colleges, universities, and public school personnel, subject to the approval of the State Board of Education, shall establish standards for the approval of local cooperative teacher education centers, and define the cooperative relationship between the college or university and the public school which serves the teacher education program.

(c) The approved public school district and the college or university using its facilities for student teaching shall jointly approve or select the supervisors of student teachers, who are employees of the district, to serve in the program and adopt an agreed continuing in-service improvement program for supervisors of student teachers or those preparing to become supervisors of student teachers.

Utah

**53A-6-101. State board certification --- Student teachers ---
Insurance coverage.**

(1) The State Board of Education may issue certificates for teachers, supervisors, administrators, and other professionals. A certificate is valid in any school district of the state for the department of instruction or supervision for which it is issued.

(2) The state board may issue certificates to persons engaged in student teaching.

(a) A certificate for student teaching is issued only upon recommendation of a teacher training institution in the state approved and accredited by the state board.

(b) A student teacher certificate authorizes the holder to teach in a specified school or schools under the specific direction of a qualified and regularly certified person.

(c) The certificate is valid only for the student teaching period.

(d) A person may not engage in student teaching without a current student teacher certificate.

(3) The state board may rank, endorse, or otherwise classify certificates when necessary.

(4) A person employed in a position requiring state certification who holds a current certificate issued by the state board is a certified employee and shall be covered by a liability insurance program carried by the entity which employs the person.

(5) A person employed in a position that requires certification by the state board must hold an appropriate certificate. This subsection does not apply to substitutes employed to take the place of regular teachers who are temporarily absent.

(6) A teacher is exempt from the requirement of having a specific subject endorsement in the area in which he teaches if:

(a) the teacher has been assigned by the district to teach a subject outside his area of certification;

(b) the teacher has teaching experience in the subject area that is outside his area of certification for more than three consecutive years; and

(c) the teacher has received at least a satisfactory evaluation for his three previous years of teaching from evaluators employed by the school district.

Washington

28A.70.400. Student teaching pilot program--Requirements--Rules

(1) The state board of education shall establish the requirements for a two-year pilot program to enhance the student teaching component of teacher preparation programs to support innovative ways to expand student teaching experiences for prospective teacher candidates and to expand opportunities for student teacher placements in school districts throughout the state. The state board shall adopt necessary rules under chapter 34.04 RCW to carry out this program.

(2) In developing the pilot program requirements, the state board shall include a requirement that each grant application be jointly developed through a process including participation by school building and school district personnel, teacher preparation program personnel, program unit members, and other personnel as appropriate. Primary administration for

28A.70.404. Student teaching pilot program--Grants--Applications--Criteria

(1) The superintendent of public instruction is authorized to award grant funding on a competitive grant basis.

(2) Each grant application shall include provisions for providing appropriate and necessary training in observation and supervision and assistance skills and techniques for each participating school district cooperating teacher and other building or district personnel who may be participants in a team concept to support the student teacher, and for each individual who is affiliated with a teacher preparation program or programs as a field-based supervisor of student teachers.

(3) In developing the grant proposals, grant requestors are encouraged but not required to consider such models or model components as:

(a) Contracting or otherwise cooperating with an educational service district to base a supervisor or supervisors in the educational service district to supervise student teachers placed into school districts located within the educational service district;

(b) Contracting or otherwise cooperating with a community college district to base a supervisor or supervisors in the community college district to supervise student teachers placed into school districts located within the boundaries of the community college district;

West Virginia

§ 18-2-6. Training of teachers; accreditation, classification and standardization of schools; standards for degrees and diploma.

a) The education of teachers in the state shall be under the general direction and control of the state board of education after consultation with the board of regents, which shall, through the state superintendent of schools,

Washington

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(1) The superintendent of public instruction is authorized to award grant funding on a competitive grant basis.

(2) Each grant application shall include provisions for providing appropriate and necessary training in observation and supervision and assistance skills and techniques for each participating school district cooperating teacher, and other building or district personnel who may be participants in a team concept to support the student teacher, and for each individual who is affiliated with a teacher preparation program or programs as a field-based supervisor of student teachers.

(3) In developing the grant proposals, grant requestors are encouraged but not required to consider such models or model components as:

(a) Contracting or otherwise cooperating with an educational service district to base a supervisor or supervisors in the educational service district to supervise student teachers placed into school districts located within the educational service district;

(b) Contracting or otherwise cooperating with a community college district to base a supervisor or supervisors in the community college district to supervise student teachers placed into school districts located within the boundaries of the community college district;

West Virginia

§ 18-2-6. Training of teachers; accreditation, classification and standardization of schools; standards for degrees and diploma.

a) The education of teachers in the state shall be under the general direction and control of the state board of education after consultation with the board of regents, which shall, through the state superintendent of schools,

West Virginia

exercise supervisory control over teacher preparation including (1) those programs in all institutions of higher education, including student teaching in the public schools; and (2) any alternative training programs leading to licensure, in accordance with standards for program approval stated in writing by the board. Such standards shall include a provision for the study of multicultural education.

As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions and social roles.

(b) To give prospective teachers the teaching experience needed to demonstrate competence, as a prerequisite to licensure, the state board of education may enter into an agreement with county boards of education for the use of the public schools. Such agreement shall recognize student teaching as a joint responsibility of the teacher preparation institution and the cooperating public schools and shall include (1) the minimum qualifications for the employment of public school teachers selected as supervising teachers; (2) the remuneration to be paid public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers; and (3) minimum standards to guarantee adequacy of facilities and program of the public school selected for student teaching. The student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher.

Wisconsin

118.19. Teacher certificates and licenses

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(3)(a) No certificate or license to teach in any public school may be issued unless the applicant possesses a bachelor's degree including such professional training as the department by rule requires, except as permitted under s. 115.28(17)(a) and par. (b). Notwithstanding s. 36.11(16), beginning August 31, 1990, no teacher preparatory program in this state may be approved by the state superintendent under s. 115.28(7)(a), unless each student in the program is required to complete student teaching consisting of full days for a full semester following the daily schedule and semester calendar of the cooperating school. Beginning August 31, 1990, no certificate or license to teach in any public school may be granted to an applicant who completed a professional training program outside this state unless the applicant completed student teaching consisting of full days for a full semester following the daily schedule and semester calendar of the cooperating school or the equivalent, as determined by the state superintendent. The state superintendent may grant exceptions to the student teaching requirements under this paragraph when the midyear calendars of the institution offering the teacher preparatory program and the cooperating school differ from each other and would prevent students from attending classes at the institution in accordance with the institution's calendar. The state superintendent shall promulgate rules to implement this subsection.

(b) The state superintendent shall permanently certify any applicant to teach Wisconsin native American languages and culture who has successfully completed the university of Wisconsin-Milwaukee school of education approved Wisconsin native American languages and culture project certification program at any time between January 1, 1974, and December 31, 1977. School districts shall not assign individuals certified under this paragraph to teach courses other than Wisconsin native American languages and culture, unless they qualify under par. (a).