

INFORMATION TO USERS

While the most advanced technology has been used to photograph and reproduce this manuscript, the quality of the reproduction is heavily dependent upon the quality of the material submitted. For example:

- Manuscript pages may have indistinct print. In such cases, the best available copy has been filmed.
- Manuscripts may not always be complete. In such cases, a note will indicate that it is not possible to obtain missing pages.
- Copyrighted material may have been removed from the manuscript. In such cases, a note will indicate the deletion.

Oversize materials (e.g., maps, drawings, and charts) are photographed by sectioning the original, beginning at the upper left-hand corner and continuing from left to right in equal sections with small overlaps. Each oversize page is also filmed as one exposure and is available, for an additional charge, as a standard 35mm slide or as a 17"x 23" black and white photographic print.

Most photographs reproduce acceptably on positive microfilm or microfiche but lack the clarity on xerographic copies made from the microfilm. For an additional charge, 35mm slides of 6"x 9" black and white photographic prints are available for any photographs or illustrations that cannot be reproduced satisfactorily by xerography.

8710661

Gray, Peggy Byers

PUBLIC SCHOOL CURRICULUM: LEGISLATIVE AND JUDICIAL MANDATES

The University of North Carolina at Greensboro

Ed.D. 1986

**University
Microfilms
International** 300 N. Zeeb Road, Ann Arbor, MI 48106

Copyright 1986

by

Gray, Peggy Byers

All Rights Reserved

PLEASE NOTE:

In all cases this material has been filmed in the best possible way from the available copy. Problems encountered with this document have been identified here with a check mark ✓.

1. Glossy photographs or pages _____
2. Colored illustrations, paper or print _____
3. Photographs with dark background _____
4. Illustrations are poor copy _____
5. Pages with black marks, not original copy _____
6. Print shows through as there is text on both sides of page _____
7. Indistinct, broken or small print on several pages _____
8. Print exceeds margin requirements _____
9. Tightly bound copy with print lost in spine _____
10. Computer printout pages with indistinct print _____
11. Page(s) _____ lacking when material received, and not available from school or author.
12. Page(s) _____ seem to be missing in numbering only as text follows.
13. Two pages numbered _____. Text follows.
14. Curling and wrinkled pages _____
15. Dissertation contains pages with print at a slant, filmed as received ✓
16. Other _____

University
Microfilms
International

PUBLIC SCHOOL CURRICULUM:
LEGISLATIVE AND JUDICIAL MANDATES

by

Peggy B. Gray

A Dissertation Submitted to
the Faculty of the Graduate School at
The University of North Carolina at Greensboro
in Partial Fulfillment
of the Requirements for the Degree
Doctor of Education

Greensboro

1986

Approved by


Dissertation Adviser

APPROVAL PAGE

This dissertation has been approved by the following committee
of the Faculty of the Graduate School at the University of North
Carolina at Greensboro.

Dissertation Adviser Joseph E. Bryson
Chairman

Committee Members Alvin L. Rumbaker
Harold D. Lusk
E. Lu Brund

March 17, 1986
Date of Acceptance by Committee

March 17, 1986
Date of Final Oral Examination

© 1986 by Peggy B. Gray

GRAY, PEGGY BYERS, Ed.D. Public School Curriculum: Legislative and Judicial Mandates. (1986)
Directed by Dr. Joseph E. Bryson. 221 pp.

The purpose of this historical study was to examine the legal issues associated with public school curriculum. A major portion of the study is a summary and an analysis of the statutory mandates of the fifty states.

Based on an analysis of the state statutes, the major legal issues related to public school curriculum, and landmark court decisions in the area of curriculum, the following findings were reported: (1) Parents' rights to determine the course of education of their children in the public schools as opposed to school board authority or teacher judgment to prescribe curricula is likely to continue to be litigated. (2) The courts have consistently upheld the right of the state legislature to specify certain subject matter for all children. (3) Even though parents, school boards, and legislatures are in disagreement on the issue, courts are consistent in ruling that school boards possess considerable discretionary authority in maintaining that sex education be incorporated in the curriculum. (4) The determination of the procedure and the management and direction of pupils and studies rests in the discretion of the school board and is not subject to the supervision of the court. (5) Students may not be punished by expulsion or corporal punishment for failure to participate in a particular course activity if the parent submits a written request for the student to be excluded. (6) It is unconstitutional to read Bible verses as a devotion or to further a religion. Secular study of the Bible as literature is constitutionally acceptable. (7) Prayer in the public schools has been ruled unconstitutional unless the prayer is

silent and private. (8) It is constitutional to release school students from public school attendance to attend religious classes off of the school premises. It is unconstitutional to release students for on campus religious instruction. (9) In regard to curricula and books in school libraries, the question of what rights students have to receive information and what rights a community has in determining what information is taught and available in the schools is one that will continue to be litigated. (10) School boards' authority to select and to remove library and instructional materials, as opposed to the selection of the same materials, will continue to be a legal issue in the courts. (11) Determining what is a constitutionally protected right will continue to be a legal issue for the courts to decide: (12) In classifications based on sex, race, or handicaps, the courts will continue to scrutinize closely any rules or laws that tend to discriminate against equal educational opportunities. The study concludes with a set of guidelines for the public school curriculum. The guidelines are based on the legal principles established by the United States Supreme Court landmark decisions and on trends revealed by federal court decisions.

ACKNOWLEDGMENTS

The writer wishes to express grateful appreciation to Dr. Joseph E. Bryson for his guidance and support in the preparation of this manuscript and to Dr. Dale L. Brubaker, adviser, and Dr. E. Lee Bernick, and Dr. Harold R. Snyder for their suggestions, guidance, and encouragement as committee members.

Sincere appreciation is also extended to the Iredell County Board of Education; Dr. Don Williams, Superintendent of the Iredell County Schools; and to colleagues Dr. Caryl B. Burns, Dr. J. Wayne Miller, Dr. John F. Nantz, Dr. Mary T. Nantz, and Dr. Kenneth A. Wilson for the moral support they gave to the writer throughout the study. Special recognition is given to Gayle C. Johnson for her excellent clerical assistance.

Appreciation is also extended to the Ebenezer Elementary School faculty and staff for their cooperation and constant support throughout this study.

The writer expresses personal gratitude to her parents, Archie V. Byers, and the late Cleo J. Byers. Finally, the writer wishes to thank her husband, Reid; and her children, Kitzi, Jimmy, Andy, and Kirk, for giving up a wife and mother during the time this study was being completed.

TABLE OF CONTENTS

	Page
APPROVAL PAGE	ii
ACKNOWLEDGMENTS	iii
LIST OF TABLES	vi
 CHAPTER I. INTRODUCTION	
Overview	1
Statement of Problem	9
Questions to be answered	10
Scope of study	11
Methods, procedures and sources	11
Definition of terms	12
Significance of study	16
Design of study	18
 CHAPTER II. REVIEW OF THE LITERATURE	
Early historical perspective of curriculum	19
American curriculum in the colonial period	32
American curriculum in the eighteenth century	35
American curriculum in the nineteenth century	41
Twentieth century curriculum 1900-1980	52
Cases	54
 CHAPTER III. STATE CURRICULUM MANDATES	
Overview	61
Table of 50 state curriculum mandates	76
Appendix of state curriculum statutes	235
 CHAPTER IV. LEGAL ASPECTS OF PUBLIC CURRICULUM	
Overview	102
Determination of subject matter	105
Methods of instruction.	118
Religious instruction in the curriculum	127
Censorship of materials	131
Equal educational opportunity	139
 CHAPTER V. ANALYSIS OF LANDMARK COURT CASES	
Organization of cases selected for review	143
Subject matter cases	144
Methods of instruction cases	154

TABLE OF CONTENTS (continued)

	Page
Religious education cases	168
Censorship of materials cases	180
Equal educational opportunity cases	199
 CHAPTER VI. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS	
Overview	207
Summary	208
Conclusions	215
Recommendations	217
Recommendations for future study	220
 BIBLIOGRAPHY	 222
 TABLE OF CASES	 222
 APPENDIX	 235

LIST OF TABLES

	Page
TABLE 1	Elementary and Secondary Greek Schools 21
TABLE 2	Advanced Education--Greek Schools. 22
TABLE 3	Elementary and Secondary Roman Schools 23
TABLE 4	Advanced Education--Roman Schools. 25
TABLE 5	Changes in Curriculum and Graduation Requirements. . 73
TABLE 6	50 State Curriculum Mandates 76
TABLE 7	Ranking of States with Greatest Number of Curriculum Mandates. 80
TABLE 8	Ranking of States with Fewest Number of Curriculum Mandates. 81
TABLE 9	States Prescribing The 3-R's 84
TABLE 10	States Prescribing Health and Physical Education . . 85
TABLE 11	States Requiring Courses in History and Constitution 87
TABLE 12	States Requiring Government and Civics 89
TABLE 13	States Requiring Specific Values and Attitudes . . . 94
TABLE 14	States Mandating That Voting Skills Be Taught. . . . 98
TABLE 15	States Mandating Relatively New Courses in Curriculum 99

CHAPTER 1

INTRODUCTION

A study of curriculum and the legal aspects of curriculum must begin with the history of the nation and the history of the public school system. In early autumn 1620, in Plymouth, England, a group of Separatists and Puritans known as Pilgrims gathered on board the Mayflower and embarked on a journey that would ultimately change the direction of history.¹ Led by William Brewster, a Separatist elder, the Pilgrims contracted with London merchants to form a colony in northern Virginia around the Hudson Bay area.²

In effect, Pilgrims came to America to preserve their religious and cultural integrity.³ The Pilgrims despised the Church of England with its pompous rituals and rich bishops. The Puritans had tried to change the church from within while the Separatists seceded completely from the church.⁴ In the villages where the Pilgrims lived, the bishop appointed

¹Joseph E. Bryson and Samuel H. Houston, Jr., The Supreme Court and the Legality of Public Funds for Religious Elementary and Secondary Schools: 1970-1984 (Charlottesville: Michie Company, 1984), pp. 1-5.

²Norman A. Graebner, Gilbert C. Fite, and Philip L. White, A History of the United States, Volume I (New York: McGraw Hill Book Company, 1970), p. 51.

³Lawrence A. Cremin, American Education: The Colonial Experience (New York: Harper and Row, Publishers, 1970), p. 15.

⁴Beatrice Siegel, A New Look At the Pilgrims (New York: Walker and Company, 1977), pp. 13-14.

ministers who dictated the church's position to the people.⁵ When the Bible was translated into English and when people learned to read, they could find nothing within the scriptures to justify the ceremonious, dictatorial methods used in the church.⁶ The Pilgrims believed that a man should be allowed to worship according to his own conscience and that in man's search for God, neither sovereign nor bishop might trespass.⁷ The merchants among the Pilgrims were intelligent individuals who wanted to raise their social class and who fervently wanted a voice in government.⁸

On September 16, 1620, the Mayflower, with a hundred and two passengers, crossed the Atlantic Ocean and sailed into American history. The trip was marred with the uncertainties of sea travel, with crowded living conditions, and with skimpy food rations.⁹ On Saturday, November 21, 1620, the Mayflower anchored in Provincetown Harbor.¹⁰ However, before the ship reached the harbor, William Brewster, John Carver, William Bradford and others, realizing they were somewhat north of Virginia and thus outside the jurisdiction of the London Company, agreed that some

⁵Adolphe E. Meyer, An Educational History of the American People (New York: McGraw Hill Book Company, 1957).

⁶Siegel, p. 14.

⁷Meyer, pp. 10-11.

⁸Siegel, p. 56.

⁹Bryson and Houston, p. 3.

¹⁰Richard B. Morris, The New World (New York: Time Incorporated, 1963), p. 77.

form of self-government compact was needed. The result of that discussion was the Mayflower Compact:

In ye name of God, Amen. We, whose names are underwritten, the loyall subjects of our dread soveraigne Lord, King James, by ye grace of God, of Great Britaine, Franc & Ireland king, Defender of ye faith, etc. Having undertaken for ye glorie of God, and advancements of ye Christian Faith and honour of our king and countrie, a Voyage to plant ye first Colonie in ye Northerne parts of Virginia, doe by these presents solomnly & mutually in ye presence of God, and one of another, covenant & combine ourselves together into a civill body politick; for our better ordering & preservation & furtherance of ye ends aforesaid; and by vertue hereof to enacte, constitute, and frame such just & equall lawes ordinances, acts, constitutions & offices, from time to time, as shall be thought most meete & convenient for ye generall good of ye colonie, unto which we promise all due submission and obedience.¹¹

What is extraordinary about the Mayflower Compact is that it established government by consent. John Quincy Adams referred to the compact as "the first example in modern times of a social compact or system of government instituted by voluntary agreement conformably to the laws of nature, by men of equal rights and about to establish their community in a new country."¹²

The Pilgrims named John Carver as their first governor. Following Carver's selection as governor, the New England Pilgrims made valuable contributions to the basic principles of self-government and eventually of American educational development.¹³

¹¹Francis Dillon, The Pilgrims (New York: Doubleday and Company, 1975), p. 137.

¹²Dillon, pp. 135-137.

¹³Ellwood Cubberly, Public Education in the United States (Boston: Houghton Mifflin Company, 1934), p. 14.

The General Court of Massachusetts passed the Law of 1634 and the Law of 1638 which established the principle of the common taxation of all property for town and colony benefit, a principle that lies at the basis of all present-day taxation for the support of schools. Under pioneer conditions, many parents and masters of apprentices proved neglectful of educational duties.¹⁴ The famous Massachusetts Law of 1642 directed the officials of each town to determine, from time to time, if parents and masters were performing these duties and if all children were being trained "in learning and labor and other employments profitable to the Commonwealth;" and if the children were being taught "to read and understand the principles of religion and the capital laws of the country."¹⁵ This Law of 1642 is remarkable in that, for the first time in the English-speaking world, a legislative body representing the State ordered that all children should be taught to read, directed parents to oversee the education of their children, and established the precedence of goal setting for public schooling.¹⁶

Finally, in 1647, the General Court took a more drastic educational step by compelling every town of fifty householders to make provision for instruction in reading and writing. The Law of 1647 was dubbed the "Old Deluder Satan Act," and plainly stated that one of the objects of

¹⁴Ibid., p. 17.

¹⁵Neil Gerard McCluskey, Public Schools and Moral Education (New York: Columbia University Press, 1958), p. 12.

¹⁶Cubberly, p. 17.

that old deluder, Satan, was to keep men from the knowledge of the scriptures.¹⁷ The law further stipulated that towns of a hundred householders were to furnish instruction in Latin grammar so that youth might be "fitted for the university." Although it was disliked, scoffed at, and disobeyed, the Law of 1647 became the basis for compulsory education in most of New England.¹⁸

Massachusetts' educational history is essentially the educational history of the New England States. In the Middle Atlantic States and the South, education was mostly private. Public education south of Connecticut, before the Revolutionary War, could be best described as localized religious schools, which were ineffective.¹⁹ Education during the Revolutionary War years was practically non-existent.²⁰

The United States Constitution conspicuously omits any direct provisions or references concerning education; therefore, causing education to become a state function.²¹ The Tenth Amendment to the Constitution insists that:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.²²

¹⁷Meyer, pp. 31-32.

¹⁸Meyer, p. 37.

¹⁹Cubberly, p. 298.

²⁰Ibid.

²¹E. Edmund Reutter, Jr., and Robert R. Hamilton, The Law of Public Education (New York: The Foundation Press, Inc., 1976), p. 2.

²²Ibid.

Why did the Constitution remain silent on matters of education? Some educational historians believe education was such a potentially explosive issue that it would have jeopardized the acceptance of the whole Constitution document.²³ Others surmised that the drafters were of the old aristocracy who considered education a private rather than a public matter; others thought it was a plain oversight.²⁴

Historian Ellwood Cubberly stated:

It is not surprising, however, when we consider the time, the men, and the existing conditions, that the founders of our Republic did not deem the subject of public education important enough to warrant consideration in the Convention or inclusion in the document. Education almost everywhere was still a private matter, and quite generally under the control of the Church.²⁵

Historically, the absence of specific language in the United States Constitution regarding education and schools, coupled with the application of the Tenth Amendment, placed the responsibility for establishing and maintaining public school systems in the hands of state governments. Since no national public school system emerged, fifty state public education systems developed. To fully understand the legal aspects of the public school curriculum, an analysis of the fifty states school codes and related court decisions of each state is imperative.²⁶

²³Edward C. Bolmeier, The School in the Legal Structure (Cincinnati: The W. H. Anderson Company, 1973), p. 4.

²⁴Bolmeier, pp. 3-4.

²⁵Cubberly, pp. 84-85.

²⁶H. C. Hudgins, Jr. and Richard S. Vacca, Law and Education: Contemporary Issues and Court Decisions (Charlottesville: The Michie Company, 1979), p. 5.

Each of the 50 state constitutions charges the state General Assemblies with establishing and controlling a public school system. The General Assemblies have almost unlimited authority--at least authority mandated by the state constitutions. Therefore, it may be concluded that within constitutional limits, state legislatures have plenary authority with respect to matters of policy for the public school curriculum. The phrase "within constitutional limits" is important. Most litigation over school affairs occurs when state statutes or local school practices are frequently alleged to be "outside constitutional limits," or in conflict with the United States Constitution.²⁷

Public school systems, as well as many other governmental activities, have become so complex that it is impossible, or even undesirable, to attempt to control administrative matters in every detail by specific legislature.²⁸ In recognition of this fact, the law is well established that boards of education, school administrators, and the classroom teachers themselves have the authority to adopt and enforce reasonable rules and regulations for the operation and management of the public school system.²⁹ This authority is particularly true in such matters as curriculum development and control, methods of instruction, and the selection of instructional material.³⁰

²⁷Evelyn R. Fulbright and Edward C. Bolmeirer, Courts and the Curriculum (Cincinnati: The W.H. Anderson Company, 1964), p. 4.

²⁸Reutter and Hamilton, p. 7.

²⁹Ibid.

³⁰Fulbright and Bolmeier, p. 5.

Most of the curricular mandates are rather general with authority delegated to local school boards to exercise local discretion in determining the specifics. The high degree of educational control exercised by certain local communities, however, should not be construed as a surrender of state authority over the curriculum and other school matters.³¹ On the contrary, the supreme authority of the state is evidenced by the very fact that the state may prescribe the scope of control to be exercised by local school districts.³²

For some aspects of the curriculum and other educational affairs, authority to exercise discretion is delegated to state boards of education or other state bodies. For instance, a state textbook commission selected through the political process is used to select textbooks for students across the state.³³ State legislative enactment and local school board policy concerning the curriculum must pass constitutional analysis.³⁴

A study of the school codes of the fifty states reveals that virtually every state requires various subjects to be included in the public school curriculum. No two states have identical requirements. For example, Wisconsin law requires the teaching of information about dairy

³¹Ibid.

³²Ibid.

³³Ibid., p. 5.

³⁴Ibid., p. 5.

products³⁵ while Nevada requires instruction in the subject of thrift.³⁶

Court cases involving various aspects of the curriculum have been decided in both federal and state courts. Most of the cases have grown out of disputed state laws, or local practices assumed to be within the scope of discretionary power granted to school districts by state law.

The overall purpose of this study is to provide school boards, public school administrators, and public school teachers with appropriate information regarding the legal aspects of public school curriculum. This information is necessary in order for educational decision-makers to be able to make decisions regarding curriculum issues that are both educationally and legally sound.

Statement of the Problem

School boards and school administrators face the continuing problem of planning, developing and implementing policy concerning public school curriculum. The problem is multi-faceted and explosive in nature.

School boards are policymaking groups for public schools. School policies are established within the constitutional statutory limits of each state, and more important, school boards must function within the limits of the United States Constitution, as interpreted by the United States Supreme Court. School boards must respond to public demand for quality programs and continuing technological, cultural and social growth

³⁵Chester Nolte, Guide to School Law (Nyack, New York: Parker Publishing Company), p. 192.

³⁶Nevada Revised Statutes. Published under the direction of the Statute Revision Committee.

in public schools.

Administrators are faced with the administration of school board policy, implementation of state constitutional and statutory mandates, and the protection of the constitutional rights of all students. Administrators must also deal with populace satisfaction in presenting a quality educational program.

Thus, there is a need to examine the legal issues associated with public school curriculum so that decision-makers will have appropriate information to use in dealing with dilemmas. Not only may such knowledge enable school people to avoid controversies which might result in litigation, but boards of education, superintendents, principals and teachers may be in a position to deal more effectively with many of the aspects of curriculum through a knowledge of the legal principles which surround various practices related to the curriculum.

Questions to be Answered

One of the stated purposes of this study is the development of practical, legal guidelines for educational decision-makers to have at their disposal when faced with making decisions concerning curriculum. Below are listed several key questions which research needs to answer in order for the legal guidelines to be developed.

1. What governmental bodies prescribe curriculum in the public schools?
2. To what extent do pressure groups influence curriculum legislation and implementation?

3. What are the elementary and secondary curriculum requirements established by legislative enactments of the fifty states?

4. How has the increase of federal legislative enactments influenced public school curriculum?

5. What public educational issues are most likely to be litigated?

6. Based upon results of recent court cases, what possible effects will these court decisions have on school boards and school administrators?

7. Based on judicial analysis, what are the trends and developments in public school curriculum?

Scope of the Study

This is a historical study of the legal aspects of public school curriculum. The research describes: (1) the extent to which legislative enactments have been promulgated; (2) the extent to which public school curriculum has been challenged and litigated; (3) reasons for the litigation; (4) the results of the major court cases; and (5) the effects judicial decisions have had on school boards and school administrators.

Methods, Procedures, and Sources of Information

The basic research technique of this historical legal research study is to examine and analyze the available references concerning the legal aspects of public school curriculum.

To determine if a need existed for such research, a search was made of Dissertation Abstracts for related topics. Journal articles related to the topic were located through use of such sources as Reader's Guide to Periodical Literature, Education Index, and the Index to Legal

Periodicals. Numerous people were helpful in searching out these materials.

General research summaries were found in the Encyclopedia of Educational Research, various books on school law, and in review of related literature obtained through a computer search from the Educational Resources Information Center (ERIC).

Federal and state court cases related to the topic were located through use of the Corpus Juris Secundum, American Jurisprudence, the National Reporter System, and the American Digest System. Recent court cases were found by examining case summaries contained in the 1984 and 1985 issues of the NOLPE School Law Reporter. All of the cases were read and placed in categories corresponding to the issues noted from the general literature review.

Letters were sent to each of the fifty state superintendents asking for a copy of the statutes pertaining to curriculum. The 40 replies were compared to findings researched in the law library at Wake Forest University.

Other supplementary materials were received from the Center for Law and Education at Harvard University, the United States Office of Education, the Research Division of the National Education Association, and the Association for Supervision and Curriculum Development.

Definition of Terms

Three terms are defined for this study. These terms include censorship, academic freedom, and public school curriculum. The first two terms are defined drawing from the work of Joseph E. Bryson and Elizabeth W. Detty. To arrive at the definition of the last term, public school curriculum, several authors' concepts of the definition will be considered

and then a definition will be synthesized for the purpose of this study.

Censorship: A process which limits access to books and materials based on value judgments or prejudices of individuals or groups. The act of censorship may be accomplished by (1) suppression of use; (2) removal of books or materials from the library or classroom, or (3) limiting access of library and instructional materials. Censorship withholds or limits the students' right to read, to learn, and to be informed and the teachers' right to academic freedom.³⁷

Academic Freedom: A concept whereby teaching and learning necessitate freedom to teach, study, and discuss divergent ideas, philosophies, and opinions; making decisions and developing beliefs from study; and expression of ideas thus formed, publicly as well as privately. For public school teachers and students, academic freedom involves the use of books and other materials which present various points of view. The philosophy of a balance in presentation is inherent in the concept.³⁸

Public School Curriculum: Traditionally, a curriculum was a collection of syllabuses and textbooks in a given school or class of schools. As the purposes of education have been broadened and as educators have become more understanding of educational problems and processes, the concept of curriculum has changed.

³⁷Joseph E. Bryson and Elizabeth W. Detty, Censorship of Public School Library Materials (Charlottesville: Michie Company, 1982), p. 10.

³⁸Ibid., p. 10.

Edward A. Krug refers to the curriculum as:

All the means employed by the school to provide students with opportunities for desirable learning experiences.³⁹

Many scholars agree with Fenick English who takes this position on curriculum:

A curriculum exists to enhance the probability that what is desired to occur will reoccur with the same or less effort in successive applications than when initially applied. In this sense a curriculum is a symbol of economics of scale of time, energy, and resource utilization in the schools. It is an improvement upon random occurrence or chance.⁴⁰

An emphasis upon the planned nature of curriculum began to surface in the 1950s and continues today.

The curriculum is all of the learning of students which is planned by and directed by the school to attain its educational goals.⁴¹

Hilda Taba states her definition quite simply: "A curriculum is a plan for learning."⁴²

The public interest in accountability for results in the last decade has encouraged the definition of curriculum as a plan:

³⁹Edward A. Krug, Administering Curriculum Planning (New York: Harper and Row, Publishers, 1956), p. 4.

⁴⁰Fenwick W. English, Quality Control in Curriculum Development (Arlington: American Association of School Administration, 1978), p. 18.

⁴¹Ralph Tyler, "The Curriculum Then and Now." Proceedings of the 1956 Conference on Testing Problems (Princeton, NJ: Education Testing Services, 1957), p. 79.

⁴²Hilda Taba, Curriculum Development: Theory and Practice (New York: Harcourt, Brace, Jovanovich, Inc., 1962), p. 11.

Curriculum is... the planned and guided learning experiences and intended outcomes, formulated through systematic reconstruction of knowledge and experience, under the auspices of the school, for the learners' continuous and willful growth in person-social competence.⁴³

Vernon E. Anderson introduces the concept of required courses and sense of deliberateness:

The term with the most precise meaning for the list of courses offered and for the grouping of required and elected courses to attain some educational objectives is the program of studies.⁴⁴

Dale L. Brubaker makes this statement:

Curriculum is defined as what persons experience in a setting. This includes all of the interactions among persons as well as the interactions between persons and their physical environment.⁴⁵

Synthesizing these definitions by various authors, public school curriculum for the purpose of this study will be:

What students experience in the school setting, with emphasis upon the program of studies which is planned by and directed by the school to obtain its educational goals. The specified program of studies includes language arts and communication, mathematics and science, social studies, music and art, health and physical education and vocational education.

⁴³Sydelle Ehrenberg, "The Case for Structure," Educational Leadership 34, 1 (October 1976): 48.

⁴⁴Vernon E. Anderson, Principles and Procedures of Curriculum Improvement (New York: Ronald Press, 1965), p. 5.

⁴⁵Dale L. Brubaker, Curriculum Planning: The Dynamics of Theory and Practice (Glenview, Illinois: Scott Foresman and Company, 1982), p. 2.

Significance of Study

Today, throughout the United States, more people are involved in curriculum issues than at any time in the history of education. Pressures have mounted as one group of citizens support a particular phase of the curriculum, while another group registers objections to the same curriculum. As a result, controversies have followed, and many of the disputes concerning curriculum problems have been carried to the courts for adjudication.⁴⁶

The courts have become more and more involved in school issues. Lawyers and courts, although unschooled in professional education, are called on to resolve various school problems. The main interest of courts has been to enforce minimum constitutional requirements and ensure at least a minimally adequate program for all students.⁴⁷

Legislative enactments often require students to take courses in United States history, English, mathematics, and the United States and State Constitutions. Some states have added requirements such as courses in driver education, the effects of alcoholic beverages, consumer education, career education, and the contributions of minority populations. A few states have legislated curriculum emphasis on values such as moral character, truth, justice, civic virtues, and the evils of communism. In

⁴⁶Glenys G. Unruh, "Curriculum Politics." Fundamental Curriculum Decisions, Edited by Fenwick W. English, (Alexandria, Virginia: Association for Supervision and Curriculum Development, 1983), p. 102.

⁴⁷Ibid., p. 100.

recent years curriculum mandates have increased drastically.⁴⁸

Until relatively recently, litigation regarding the public school curriculum has not extended beyond the state courts because the curriculum disputes were not based upon violation of the federal Constitution. The first time the United States Supreme Court actually ruled upon the constitutionality of a curriculum matter was in the 1923 case of Meyer v. Nebraska.⁴⁹ The court insisted that a state legislature act prohibiting the teaching in any language other than English was in violation of the Fourteenth Amendment and was therefore unconstitutional.⁵⁰

Gradually other cases concerning the public school curriculum were decided by the Supreme Court. The 1948 Illinois v. McCollum⁵¹ case and the 1952 Zorach v. Clauson⁵² case, both had significant influence on the curriculum concerning released time on and off campus for religious study.

The significance of this study is that it enumerates and analyzes court cases and legal principles which may serve as guidelines for the adoption of practices likely to be upheld in court. The study also provides an analysis of the state statutes of all fifty states.

⁴⁸Ibid., pp. 100-109.

⁴⁹Meyer v. Nebraska, 262 US 390, 67 LEd 1042, 43 Sct 625 (1923).

⁵⁰Ibid.

⁵¹Illinois ex. rel. McCollum v. Board of Education Dist. No. 71, 333 US 203, 68 Sct 461, 92 LEd 648 (1948).

⁵²Zorach v. Clauson (NY), 343 US 306, 96 LEd 954, 72 Sct 679 (1952).

Design of the Study

The remainder of the study is divided into five major parts. Chapter two contains a review of related literature. In addition to the literature dealing specifically with the legal aspects of public school curriculum, this section includes a summary review of the development and growth of public education in world history and in United States history.

The third chapter includes a narrative discussion, along with charts, concerning requirements to be included in the public school curriculum. Information for the chapter was taken from the school codes of the fifty states.

The fourth chapter looks at the major legal issues related to public school curriculum. The sub-topics for this chapter evolve from the litigations that have occurred. These litigations have involved major constitutional questions related to curriculum.

Chapter five contains a general listing and analysis of the landmark court decisions. The facts of the cases, decisions of the courts, and discussions are presented for each category.

The concluding chapter six contains a summary of the information obtained from the review of the literature and from the analysis of the selected court cases. The questions asked in the introductory part of the study are reviewed and answered in this chapter. Several pertinent suggestions and recommendations for those who assume responsibility for the planning and execution of the public school curriculum complete the chapter.

Chapter II

REVIEW OF THE LITERATURE

Early Historical Perspective of Curriculum

Throughout history, education of children has been a matter of great concern. Anthropological and historical studies reveal how educational programs have developed and how they have functioned in various cultures from primitive to modern times.¹

Historical introspection was difficult in primitive times; therefore, a formal educational system developed slowly. Humankind apparently existed a considerable time on earth before much thought was given to the length of time a person might live and the quality of life during those years. Primitive societies' education focused on survival--food, clothing, shelter, and security. While no formal educational institutions existed, the social group, the family--the de facto educational institution--was responsible for ideas and tradition encapsulating pragmatic requirements of everyday life. Fishing, hunting, play, legend, manners, security, and spiritual worship became the imperative curricula.²

¹Gerald Berreman et. al., Anthropology Today (Del Mar, California: Communications Research Machines, Inc., 1971), pp. 353-367.

²Edgar W. Knight, Twenty Centuries of Education (New York: Ginn and Company, 1940), pp. 116-138.

In order to provide some perspective for the development of American educational history, it is necessary to look at three different civilizations--the Greeks, the Romans, and the Christians. These three groups provided, to a great extent, the foundations for European and American educational curriculum.³ Tables 1, 2, 3, and 4 present the development of education during early Greek, Roman, and Christian times--the period of 970 B.C. through 1000 A.D.

In Greece the period between 500-300 B.C. has been referred to as the Age of Enlightenment, an era of the greatest importance to western education. Education, which was designed for the benefit of the city state, was under secular control. Intellectual, aesthetic, moral, political, and physical education flourished in the palaestra and the gymnasium. Military training served as the final preparation for the duties of citizenship. Girls generally had no education outside the home. The leading philosophers, Socrates, Plato, and Aristotle critically examined and clarified major problems of education and laid the foundation of educational theory.⁴ The rationality and style of the Greek culture were evident in the literature, the art, and the philosophy which were to be a heritage to all succeeding civilizations.⁵

The Romans left an entirely different type of inheritance. In its

³Ellwood P. Cubberly, Public Education in the United States (Boston: Houghton Mifflin Company, 1934), pp. 1-2.

⁴Hugh Thomas, A History of the World (New York: Harper & Row, Publishers, 1979), pp. 47-74.

⁵Wade C. Stephens, ed., The Spirit of the Classical World (New York: G. P. Putnam's and Sons, 1967), p. 13.

TABLE 1

*Elementary and Secondary
** Greek Schools

School Type	Curriculum Subjects	Broad Curriculum Goals
Elementary-Secondary		
<u>Individual Teacher-- School--</u> (Where the teacher was there was the school. Parents selected a teacher, entered into a contract, paid fees, and sent their sons to him.)		
<u>Palaestra</u> (taught by a teacher of gymnastics)	Gymnastics (run, jump, swim, throw, and wrestle)	Develop physical stamina, grace, and health
<u>Citharist</u>	Music (seven string lyre, sing, chant, and dance)	Develop a sense of rhythm and melody
<u>Grammatist</u>	Reading, writing, counting	Concentrated on linguistic and intellectual development

* Occasionally two or more of the above would establish a school; children would then spend part of the day with one and the remaining with the other.

** 1000-300 B.C.

TABLE 2

*Advanced Education
Greek Schools

School Type	Curriculum Subjects	Broad Curriculum Goals
<u>State Gymnasium</u> (provided for boys 15 years and older)	Sports (pentathlon, running, jumping, discus throwing, javelin throwing, and wrestling)	Healthy body, preparation for the military
Military training	Calvary, infantry, or naval maneuvers	Defense and preparation
<u>University</u>		
Socrates Academy (969-399 B.C.)	Mathematics	Philosophy training and vision, conversant with the immutable principles upon which all reality and just action rest, knowledge that would enable leaders to rule with more wisdom. For the governing class.
Plato (427-347 B.C.) (First University of Western Civilization)	Astronomy	
Aristotle (384-322 B.C.)	Logic	
	Political Science	
	Music	
Aristotle (384-322 B.C.) Lyceum (Exceeded Plato's Academy in importance and influence)	Gymnastics Philosophy (Dialectics)	To assimilate the whole body of existing knowledge on all subjects for focus-- discovering universal truth
	Physics, astronomy, biology, physiology, anatomy, natural history, psychology, politics, ethics, logic, rhetoric, art, theology, and metaphysics	

* 1000 - 300 B.C.

TABLE 3

*Elementary and Secondary
Roman Schools

School Type	Curriculum	Broad Curriculum Goals
<p><u>Elementary and Secondary</u> Children ages 7 to 12 for both boys and girls</p>		
<p><u>Ludus</u> (The teacher was a <u>ludi magister</u>)</p>	<p>Grammatist (reading and write Latin, count)</p>	<p>Develop ability to read, write, count, to advance and enhance the Republic of Rome</p>
<p>Greek scholars, teachers introduction of Hellenistic thought, literature, philosophy, science, and religion--Roman conquest Greece lost, Hellenism culture conquered Rome.</p>		
<p><u>Secondary School</u> (Imported from Greece-- eventually the Greek school disappeared.) (Boys aged eleven to sixteen.) Grammar School (taught by a teacher known as a grammatician--Either private school or family tutor).</p>	<p>Greek grammar and literature</p>	<p>Develop intellectual pattern of Hellenistic East</p>
<p><u>Roman Education</u> This secondary school developed to enhance Latin as the National language</p>	<p>In general the liberal arts but teaching Latin, poetry, literature, composition, literary criticism, history, ethics and social studies (In the latter stages narrowed to prepare for later study of rhetoric.)</p>	<p>Develop patriotism, enhance Latin and develop national pride</p>

TABLE 3 (continued)

*Elementary and Secondary
Roman Schools

School Type	Curriculum	Broad Curriculum Goals
<u>Latin Grammar School</u>	Art of speaking correctly. Training in literature	Preparation for advanced education

*600 B.C. - 500 A.D.

TABLE 4

*Advanced Education

** Roman Schools

School Type	Curriculum Subjects	Curriculum Goals
<u>Latin rhetorical schools</u> Cicero Quintilian Vergil	Rhetoric--Latin orator or statesman (all major fields of knowledge)	Preparation of Roman youth for a career in politics and public services developing Roman youth broad understanding and good practical judgment.
<u>The Athenaeum</u> and various types of technical institutes and libraries	Medicine, architecture engineering, and law Mathematics, language, philosophy, literature, religion (Humanities--Cicero--seven liberal arts: literature, rhetoric, philosophy, mathematics, geometry, astronomy, and music.)	Study all great problems of life for intellect and leadership in public affairs--cultivated orator--philosophical statement

* Rome made great educational progress and by the second century A.D. schools at all levels were extended throughout the Empire.

**600 B.C. - 500 A.D.

earliest forms, education was practical and religious and centered on farm, forum, and military affairs. Service to the state was held in highest regard, but education was private, first in the home and then in schools. Titus Livius speaks of a ludus, an elementary school, but reading and writing Latin and counting had a small place in Rome's early education. When Rome expanded into Africa and the Middle East, the process of Hellenization began, and the Latin Grammar School flourished. In physical culture, the Greek gymnasium had come into popularity by Cicero's time. Roman authors such as Cicero, Virgil, and Horace were prominent. From Cicero to Quintilian, Roman literary education was at its zenith.⁶

Rome amalgamated the whole ancient world into one Empire in which a common language, dress, manners, religion, literature and government evolved. By imposing law and order on an unruly world and by unifying the ancient civilizations into one organized whole, Rome laid the necessary basis for the success of Christianity and thus saved civilization from an even greater disaster when the Germanic hordes poured over the Roman Empire.⁷

After Constantine (324 A.D.), Christian and pagan forces contended for dominion. Constantine became a Christian because he saw, on one of his marches, "the luminous trophy of the cross placed above the meridian sun" and inscribed: "By this, conquer."⁸ Once Constantine had committed

⁶Thomas, pp. 98-139.

⁷Cubberly, p. 2.

⁸Thomas, pp. 140-145.

himself to the Christian faith, he did not retreat. Constantine and Licinius in Milan, the co-rulers of the empire, issued an epochal religious freedom pact at Milan in 313 A.D. The Edict of Milan was the first proclamation in history that guaranteed religious freedom. Religious freedom was short lived, however, because shortly thereafter all worshippers of any god but the Christians' god were declared heretics and criminals by the state. The advent of Christianity introduced a conflict which is still evident in the educational world, namely the struggle between ecclesiastical and secular control.⁹

The fall of the Roman Empire and the long struggle of the Christian Church to preserve civilization from complete destruction at the hands of the Germanic barbarians was a chaotic time.¹⁰ Progress ceased in the ancient world. The creative force of antiquity seemed exhausted. Greek was forgotten; Latin was corrupted. The knowledge of the arts and sciences was lost and schools disappeared. The Christian Church took ten centuries to partially civilize, educate, and reduce to national order the mix of new peoples and to save enough of the ancient civilization so that the modern world would be able to reconstruct a new civilization from the fragments which remained.¹¹

The Renaissance, in the period from the thirteenth through the sixteenth centuries, was the most stimulating period intellectually that Europe had known since the days of ancient Greece and Rome. The idea

⁹Ibid.

¹⁰Cubberly, pp. 3-4.

¹¹Ibid.

of rebirth was common in both classical and Christian sources. Greek and Roman mythology and religion contained frequent instances of sudden and miraculous renewals of power in the lives of individual heroes and a number of people believed that a whole society could be renewed or restored. Moreover, the measures introduced by Augustus at the beginning of the Roman Empire were advanced as a restoration of the ancient republic. The new golden age was expressed in Virgil's Fourth Eclogue: "Iam redit et Virgo, redeunt Saturnia regna (Now the Virgin also returns, The Saturnian rule returns)." With Christianity, these ideas took on a further spiritual emphasis and it became commonplace from the time of the gospels onward to speak of the rebirth of a soul in Christ.¹²

By 1450 paper was in common use throughout Europe and the way was open for one of the world's greatest inventions, the printing press. Printing flourished when a moveable type was devised which could be used repeatedly. Johann Gutenberg, a goldsmith from Mainz, Germany, had established a large printing office by 1448. Gutenberg used type made from an alloy of lead, tin and antimony.¹³ The printing press brought about a rapid expansion of schools and learning, and the printing press was destined in time to surpass in importance the pulpit and the sermon, and to become one of the world's greatest instruments for human progress and individual liberty.¹⁴

¹²Wallace Ferguson, The Renaissance in Historical Thought (Boston: Houghton Mifflin Company, 1948).

¹³Thomas, p. 199.

¹⁴Cubberly, p. 5.

Another critical change during the Renaissance was the attitude of the people toward the concept of time. Prior to the fourteenth century, there had been a great vagueness about time. This attitude changed with the advent of the clock. After the invention of the counterpoise clock in Germany, no European city felt proud of itself unless it had an elaborate public clock with angels, planets, and prophets, as historian Lynn White describes, "marching and countermarching," often attached to churches and sometimes to town halls.¹⁵

Orators, preachers, and professors studied Cicero, Quintilian, and the imperial panegyrists and no accomplishment was "more highly esteemed" than the power of improvisation in Latin." Students of herbs in the sixteenth century studied Dioscorides' Materia Medica. Perhaps most important of all in the Renaissance in Europe, there was a rediscovery of technology that had long been forgotten.¹⁶

The Renaissance curriculum encapsulated the study of the humanities which came to be considered the Latin and greek classics. Even though universities ultimately rejected the humanities as a threat to established academic and institutional interests, the humanities later became the basic curriculum foundation. Formal school institutions such as the Italian court schools (which existed primarily for nobility and merchant class children), the German gymnasium, France's court and nobility schools, England's grammar schools and the American colonies' Latin

¹⁵Thomas, p. 171.

¹⁶Thomas, p. 170.

grammar schools all emphasized the classics.¹⁷

Equally as important as the Renaissance was the Reformation. The Reformation of the sixteenth century started as an effort to bring about reforms within the Roman Catholic church. With the realization that reform was impossible, Martin Luther nailed his historical protest to the door of All Saints' Church in Wittenberg in 1517.¹⁸ After Luther disputed the practices of the Church and defied its authority, he was excommunicated in 1520. The German people adopted Luther's point of view and revolted; the revolt spread to other countries in the north and west of Europe and the Roman Catholic Church in Western Europe was permanently divided.¹⁹

Protestant religion came into existence, but it took a century of population growth, land speculation, social mobility and intermittent religious warfare, during which Catholics and Protestants waged war on one another, for the people of Western Europe to be willing to stop fighting and to do something constructive.²⁰ The result of this long religious strife was to check the orderly progress of civilization, spread misery and suffering abroad, and drive from the persecuted countries those who would rather leave than conform to a religion they could no longer tolerate. The result was a generation of tough minded,

¹⁷Knight, pp. 116-138.

¹⁸Cubberly, pp. 5-8.

¹⁹Cubberly, pp. 6-7.

²⁰Lawrence Cremin, Traditions of American Education (New York: Basic Books, Inc., 1977), p. 4.

determined Englishmen who crossed the Atlantic Ocean to North America and became the early settlers of the American colonies.²¹

Ulrich Zwingli in Switzerland, John Calvin in France, and John Knox in Scotland laid the foundation for substituting Biblical authority for authority of the Church.²² There was an opportunity through the study of the writings of the Early Church fathers to compare the Church of the first centuries in its belief and organization with the Church of the sixteenth century. There was also a growth of national feeling in some of the nations of Europe and an increasing desire among the people that ecclesiastical affairs be handled within the nation rather than by the distant papacy, especially as the popes were involved in European politics.²³

Under the older religious theory of collective judgment and collective responsibility for salvation, it was not important that more than a few be educated. Under the new theory of individual responsibility advocated by the Protestants, the education of all became a vital necessity. To provide this education meant the creation of an entirely

²¹Carl Bridenbaugh, Vexed and Troubled Englishmen, 1590-1642 (New York: Oxford University Press, 1968).

²²Cubberly, pp. 8-10.

²³Cubberly, pp. 8-10.

new type of school, the elementary school, conducted in the native tongue for the masses. The elementary school was to supplement the secondary Latin schools of the Renaissance and the still older cathedral and monastic Latin schools. A new day was dawning in the evolution of education!²⁴

American Curriculum in the Colonial Period

The early colonial schools were largely instruments of religion which were changed gradually into important instruments of the state. The first schools in America were clearly the fruits of the Protestant Revolts in Europe. The reformers had insisted upon the necessity of a knowledge of the gospels as a means to personal salvation. This meant that each child should be taught to read so that he might become acquainted with the commandments of God and learn what was demanded of him. The English were not the only people to colonize America. The Spanish, the French, the Czechs, the Swedes, the Scottish Presbyterians, and German sectarians were among the early settlers. They settled in the wilderness, bringing with them European ideas concerning religion and the training of children.²⁵

Of all those who came to America during the early period, the Puritans, who settled New England, contributed the most that was valuable for American educational development. The Puritans established,

²⁴Ibid.

²⁵Cremin, p. 6.

in practice, principles which have finally been adopted generally by the different states. English culture triumphed in America and with it, English law, English language, and English custom.²⁶

The colonists were seen and indeed saw themselves not merely as patriots and adventurers but as agents of God's grand design for the world. John Cotton, Puritan preacher, found scriptural sanction for the voyage to New England in his sermon to the Winthrop fleet at Gravesend in June, 1630: "I will appoint a place for my people Israel, and will plant them, that they may dwell in a place of their own and move no more; neither children of wickedness afflict them anymore, as beforetime."²⁷ Being part of God's design gave the institution of colonial education new purpose and prestige.²⁸

The Massachusetts laws of 1634 and 1638 established the principle of the common taxation of all property for town and colony benefits, a principle that became the basis of all present-day taxation for the support of schools. The laws of 1642 and 1647 laid down the basis for the compulsory education of all children and the compulsory town maintenance of schools. The 1642 enactment insisted that parents and guardians assume responsibility for their children's education including ability to read and understand religion and Massachusetts law.²⁹

²⁶Cubberly, p. 12.

²⁷II. Samuel 7:10.

²⁸Cremin, p. 9.

²⁹Cubberly, p. 14.

After true English fashion, the provision of education was still left with the homes. Under the hard pioneer conditions and the suffering which ensued, many parents and masters of apprentices apparently neglected their educational duties.³⁰

The famous Law of 1647, the "Old Deluder Satan Act," required a town with at least fifty families to

. . . Appoint one within their towne to teach all such children as shall resort to him to write and reade. . . wages shall be paid either by ye parents or masters of such children, or by ye inhabitants in general. . .³¹

For the first time among English-speaking people, the state asserted the right to require communities to establish and maintain schools under penalty of a fine if they refused to do so.³²

These four laws, in effect, establish a cornerstone of the present American public education system. Massachusetts' public education history is essentially the educational history of New England, including Maine, New Hampshire, and Connecticut. Rhode Island and Vermont were equally slow in developing public education around 1790.

In the Middle Atlantic states and South education was almost entirely private. Middle Atlantic and Southern States' education could best be characterized as localized religious schools with little lasting significance. What was significant, was the idea that all children should be educated.³³

³⁰Cubberly, p. 17.

³¹The Colonial Laws of Massachusetts (Boston: City Council of Boston, 1889).

³²Cubberly, p. 18.

³³Cubberly, pp. 24-27.

George Martin, Massachusetts historian, supports the States' responsibility to the child by making this statement:

It is important to note here that the idea underlying all this legislation was neither paternalistic nor socialistic. The child is to be educated, not to advance his personal interests, but because the State will suffer if he is not educated. The State does not provide schools to relieve the parent, nor because it can educate better than the parent can, but because it can thereby better enforce the obligation which it imposes.³⁴

American Curriculum in the Eighteenth Century

The original Massachusetts colonies of Plymouth, Salem, and Boston were founded by a group of stiff-necked, middle-class English Puritans whose forms of worship and passion for learning, sobriety, and exclusivity had a strong Hebraic quality. From the very first the Massachusetts colonists started making things related to the educational process. They made books, religious tracts, a Bible for Indians, a spelling book, and they made schools--elementary schools, grammar schools, and colleges. They made these things because they needed them. Little by little they realized that they needed good schools.³⁵

By the eighteenth century, schools were well established. Three clearly marked types of educational practices were established in America. The first practice was the strong Calvinistic conception of a religious state, supporting a system of common schools, higher Latin schools, and

³⁴Cubberly, p. 19.

³⁵Malcolm C. Jensen, America in Time (Boston: Houghton Mifflin Company, 1977), pp. 14-17.

³⁶Cubberly, p. 25.

a college, both for religious and civic ends. This type dominated New England and is best represented by Massachusetts and Connecticut. Out of this educational practice, the modern state school systems have evolved.³⁷

The second type of educational practice was the parochial school design of the Dutch, Moravians, German and Swedish Lutherans, German-Reformed Church, Quakers, Presbyterians, Baptists, and Catholics. This parochial school concept stood for church control of all educational effort, resented state interference, was dominated only by church purposes, and in time came to be a serious obstacle in the way of state organization and control.³⁸

The third type of educational practice into which the second type tended to fuse, was shaped by the attitude of the Church of England. The Church conceived of public education, aside from collegiate education, as intended chiefly for orphans and children of the poor, and as a charity which the State was under little or no obligation to assist in supporting. All children of the upper and middle classes in society attended private or church schools, or were taught by tutors in their homes, and for such instruction paid a proper tuition fee.³⁹

Schoolmasters were required to "catechise in the principles of the Christian religion," and it was made "a chief part of the schoolmaster's religious care to command his scholars and his

³⁷Cubberly, p. 25.

³⁸Ibid.

³⁹Cubberly, pp. 25-27.

labors amongst them unto God by prayer morning and evening, taking care that his scholars do reverently attend during the same."⁴⁰

Lawrence Cremin ventured the following opinion concerning literacy in colonial America:

I would contend that literacy rates among transplanted Europeans of the first and second generations remained roughly comparable to those in the European metropolis; and I would stress by way of explanation the crucial role of familial and church instruction in colonial regions where schools were not widely available. Second, using statistics of newspaper circulation, which I would judge a more dependable measure of literacy than signature counts, I would argue that the character of American literacy changed fundamentally in the eighteenth century, from inert literacy to liberating literacy--in essence, a growing number of readers (who had learned to read in households, churches, schools, and via self-instruction) stimulated an expanding press, which in turn stimulated the motivation to read.⁴¹

The experience of schooling was individualized, with students working one by one with the teacher. The range of ages in most schools made this procedure necessary.⁴²

Schooling slowly became more nearly secular during the eighteenth century, as can be seen in successive eighteenth century editions of The New England Primer, or between the Primer and the textbook by Thomas Dilworth, which became very popular after 1750.⁴³ The content and sequence of learning remained traditionally well defined with each student progressing from textbook to textbook at his own pace. Teachers were

⁴⁰Cubberly, p. 42.

⁴¹Lawrence Cremin, Traditions of American Education, p. 32.

⁴²Carl F. Kaestle, The Evolution of An Urban School System: New York City, 1750-1850 (Cambridge, Mass.: Harvard University Press, 1973), p. 161.

⁴³Lawrence Cremin, Traditions of American Education, p. 32.

selected primarily for their soundness in the faith. School hours were long, methodical, and discipline was severe. Instruction in reading, writing, and arithmetic predominated.⁴⁴

The growing appetite for useful knowledge ushered in a new kind of school, the academy.⁴⁵ The beginning of major curriculum change can be traced to Benjamin Franklin who conceived the idea and opened the Philadelphia Academy in 1751.⁴⁶ Had Franklin been able to follow his own desires, the school would have put emphasis on the modern and practical subjects. The trustees were not ready, however, to give up the ancient discipline. When the school announced its opening, it advertised modern languages, history, English and natural science in addition to the curriculum of the Latin grammar school.⁴⁷ This significant change from the traditional English plan was the first attempt at modernizing the American school.⁴⁸

The effect of the Revolutionary War on all types of schools was disastrous. Most of the rural and parochial schools closed or continued at a more or less intermittent existence. The war engrossed the energies and the resources of the people in the

⁴⁴Lawrence Cremin, American Education: The Colonial Experience 1607-1783 (New York: Harper & Row, 1970), p. 193.

⁴⁵John R. Verduin, Jr., Cooperative Curriculum Improvement (Englewood Cliffs, New Jersey: Prentice Hall Inc., 1967), p. 21.

⁴⁶Ibid.

⁴⁷Adophe E. Meyer, An Educational History of the American People (New York: McGraw Hill, 1957), p. 89.

⁴⁸Verduin, p. 21.

different colonies, and schools, never very securely placed in the affections of the people outside of New England were allowed to fall into decay or entirely disappear.⁴⁹

At first those responsible for the government in the United States were too busy with problems of organization, finance, and order to think much of other things, but soon after a partial measure of these had been established the leading statesmen of the time began to express the need for general education in the United States.⁵⁰

Thomas Jefferson wrote to Colonel Yancey the following words:

If a nation expects to be ignorant and free in a state of civilization it expects what never was and never will be ...There is no safe deposit (for the functions of government) but with the people themselves; nor can they be safe with them without information.⁵¹

John Adams expressed a new motive for free public education, when he eloquently wrote:

The instruction of the people in every kind of knowledge that can be of use to them in the practice of their moral duties as men, citizens, and Christians, and of their political and civil duties as members of society and freemen, ought to be the care of the public and of all who have any share in the conduct of its affairs, in a manner that never yet has been practiced in any age or nation. The education here intended is not merely that of the children of the rich and noble, but of every rank and class of people, down to the

⁴⁹ Cubberly, p. 82.

⁵⁰ Cubberly, p. 88.

⁵¹ Cubberly, p. 89.

lowest and the poorest. It is not much to say that schools for the education of all should be placed at convenient distances and maintained at the public expense. The revenues of the State would be applied infinitely better, more charitably, wisely, usefully, and therefore politically in this way than even in maintaining the poor. This would be the best way of preventing the existence of the poor... Laws for the liberal education of youth, especially of the lower classes of people, are so extremely wise and useful that, to a humane and generous mind, no expense for this purpose would be thought to be extravagant.⁵²

Ezra Stiles in his election sermon before the governor and assembly of Connecticut in 1783 offered this challenge and vision:

We shall have a communication with all nations in commerce, manners, and science, beyond anything heretofore known in the world. Manufacturers and artisans, and men of every description, may perhaps come and settle among us. They will be few indeed in comparison with the annual thousands of our natural increase, and will be incorporated with the prevailing hereditary complexion of the first settlers:-- we shall not be assimilated to them, but they to us, especially in the second and third generations. This fermentation and communion of nations will doubtless produce something very new, singular, and glorious... That prophecy of Daniel is now literally fulfilling--there shall be a universal traveling to and fro, and knowledge shall be increased. This knowledge will be brought home and treasured up in America: and being here digested and carried to the highest perfection, may reblaze back from America to Europe, Asia and Africa, and illumine the world with truth and liberty.⁵³

Though government still shied at taking a commanding role in the education of the people, the thought that such endeavor

⁵²Cubberly, p. 89.

⁵³Cremin, American Education: The Colonial Experience, p.561.

was proper had ceased to be a novelty.⁵⁴ The Constitution's failure to make resolute mention of education, to signal it as the function and province of the national government, was taken to mean that sovereignty over education had been delegated to the states. Though the states had begun to regard education as their responsibility, and had even made laws accordingly, there was no aversion to passing the job over to the churches or to private enterprise. The most formidable obstacle of all, however, was the fact that general public education would necessitate heavier taxation.⁵⁵

It became evident, in time, to those who were thinkers that liberty and political equality could not be preserved without the general education of all. A new motive for education was created and gradually formulated, and the nature of school instruction came in time to be colored by this new political motive. It would take longer than a half century for the common school to become established.⁵⁶

American Curriculum in the Nineteenth Century

The American people proceeded on two fronts, establishing educational arrangements that would nurture piety, civility, and

⁵⁴ Meyer, p. 114.

⁵⁵ Meyer, p. 115.

⁵⁶ Cubberly, p. 91.

learning. Like all other institutions of education, the schools inevitably liberated at the same time that they socialized. Many a colonial child was freed from the social and intellectual constraints of a particular household, church, or neighborhood by attending a nearby school, which opened doors to new ideas, new occupations and new life styles.⁵⁷

Regardless of the national land grants for education made to the new states, the provisions of the different state institutions, the progress made in the few schools in the cities, and the early state laws, it was apparent that, as a people the United States had not developed an educational consciousness, outside of New England and New York before about 1820, and in some states, especially in the South, a state educational consciousness was not awakened until much later.⁵⁸ Education for the masses was still considered to be a luxury. Ellwood Cubberly cites many reasons for this lack of interest in education among the masses of the people:

The simple agricultural life of the time, the homogeneity of the people, the absence of cities, the isolation and independence of the villages, the lack of full manhood suffrage in a number of the States, the continuance of old English laws, the want of any economic demand for education, and the fact that no important political question calling for settlement at the polls had as yet arisen, made the need for schools and learning seem a

⁵⁷Cremin, American Education: The Colonial Experience, p. 192.

⁵⁸Cubberly, p. 110.

relatively minor one. There was little need for book learning among the masses of the people to enable them to transact the ordinary business of life. A person who could read and write and cipher in that time was an educated man, while the absence of these arts was by no means a matter of reproach.⁵⁹

After the War of 1812, energies were turned toward creating a democratic system of public schools. As democratic consciousness began to arise, the demand came for a more practical institution, less exclusive and less aristocratic in character and better adapted in its instruction to the needs of a frontier society.⁶⁰

Daniel Webster, in an address delivered at Plymouth, Massachusetts, in 1822 and again in an address delivered at Madison, Indiana, in 1837, expressed his conception of the importance of education in a nation such as America:

Education, to accomplish the ends of good government, should be universally diffused. Open the doors of the schoolhouses to all the children in the land. Let no man have the excuse of poverty for not educating his offspring. Place the means of education within his reach, and if he remain in ignorance, be it his own reproach . . . On the diffusion of education among the people rests the prescription and perpetuation of our free institutions.⁶¹

With the coming of nationality and the slow but gradual growth of a national consciousness, national pride, national needs, and the gradual development of national resources in the shape of taxable

⁵⁹Cubberly, pp. 110-111.

⁶⁰Cubberly, p. 156.

⁶¹Cubberly, pp.156-157.

property combined to make secular instead of religious schools seem both desirable and possible to a constantly increasing number of citizens.⁶² In almost every state, citizens organized to work for public schools.⁶³

Under Horace Mann's aggressive leadership, Massachusetts in many ways taught the nation the ideals of universal education. With a sense of dedication proper to a crusader Horace Mann had accepted the challenging, underpaid post of being secretary of the State Board of Education in Massachusetts, which at that time was the most literate and religious corner of the United States. Mann revealed his feelings:

Henceforth, so long as I hold this office, I devote myself to the supremest welfare of mankind upon earth . . . Faith is the only sustainer. I have faith in the improvability of the race--in their accelerating improvability . . . a spirit mildly devoting itself to a good cause, is a certain conqueror--Love is a universal solvent.⁶⁴

The fight for free schools was a bitter one and for twenty-five years the outcome was uncertain. Local elections were fought, won, and lost on the school issue. Legislation passed one year was sometimes repealed the next. State laws requiring public schools were ignored by the local communities that were supposed to build them.⁶⁵

A number of people believed there was a need to abolish pauper schools. The schools were considered to be a dangerous conception of

⁶²Cubberly, pp. 121.

⁶³Lawrence A. Cremin, The Transformation of the School (New York: Alfred A. Knopf, Inc., 1961), p. 12.

⁶⁴Neil Gerard McCluskey, S. J., Public Schools and Moral Education (New York: Columbia University Press, 1958).

⁶⁵Cremin, The Transformation of the School, p. 13.

education for a democratic form of government to tolerate. The pauper school conception was a direct inheritance from English rule, was part of a society based on classes, and was out of place in a Republic founded on the doctrine that "all men are created equal, and endowed by their Creator with certain inalienable rights." 66

Large numbers of those for whom the pauper schools were intended would not brand themselves as paupers by sending their children. The Philadelphia Society for the Establishment and Support of Charity Schools made this statement in 1818:

In the United States the benevolence of the inhabitants has led to the establishment of Charity Schools, which though affording individual advantages, are not likely to be followed by the political benefits kindly contemplated by their founders. In the country a parent will raise children in ignorance rather than place them in charity schools. It is only in large cities that charity schools succeed to any extent. These dispositions may be improved to the best advantage, by the Legislature, in place of Charity Schools, establishing Public Schools for the education of all children, the offspring of the rich and the poor alike.⁶⁷

Teaching religion in public schools remained sectarian until after the 1840s, when Horace Mann, recognizing the value of a common core of religious beliefs, tried to create a non-sectarian school system. The Superintendent of public schools in St. Louis, William Harris, joined Mann in his fight for non-sectarian schools. Harris argued that only the moral aspect of religion had a place in public education.

⁶⁶Cubberly, p. 189.

⁶⁷Ibid.

Mann began in Massachusetts educating public opinion and soon became the acknowledged leader in school organization in the United States. State after state called upon his expert advise. Within five years of his organization of the Board of Education, a common school convention was held in each county in Massachusetts annually. At these conventions Mann rallied for the cause of education. He sent out men of all classes to all parts of the state explaining to the people the need for a reawakening of educational interest in Massachusetts.⁶⁸

Mann's Reports on the condition of education in Massachusetts and his intelligent discussion of the aims and purposes of public education earned for him the distinction of being the greatest of the "founders" of the American system of free public schools. Cubberly made this statement:

No one did more than he to establish in the minds of the American people the conception that education should be universal, non-sectarian, and free, and that its aim should be social efficiency, civic virtue, and character, rather than mere learning or the advancement of sectarian ends.⁶⁹

The educational awakening in Massachusetts, brought on by Mann and James G. Carter, another advocate of free public education, was to many a rude awakening. The awakening revealed that many changes had taken place and the old school of the Puritans had gradually been

⁶⁸Cubberly, p. 224.

⁶⁹Cubberly, p. 225.

replaced by a new and purely American type of school, with instruction adapted to democratic and national rather than religious ends. For the first time in America's history the cry was raised, "The public schools are Godless schools." Those who believed in the old system of religious instruction, those who bore the Board or its Secretary personal ill-will, and those who desired to break down the Board's authority and stop the development of the public schools, united forces in this attack against secular education. Horace Mann fought the battle so well that in 1847 Governor Briggs of Massachusetts in his inaugural address commended Mann as follows:

Justice to a faithful officer leads me to say that the indefatigable and accomplished Secretary of the Board of Education has performed services in the cause of common schools which will earn him the lasting gratitude of the generations to which he belongs.⁷⁰

As the colonial Latin grammar school had represented the educational needs of a society based on classes, and the academies had represented a transition period and had marked the growth of a middle class, so the rising American high school, supported by the public and equally open to all, represented the educational needs of a society built on the basis of a new and aggressive democracy.⁷¹

⁷⁰ Cubberly, pp. 234-235.

⁷¹ Cubberly, p. 253.

The first high school in the United States was established in Boston in 1821. The same year a high school opened in Portland, Maine, followed three years later by another one in Worcester, Massachusetts. The first high school to venture forth outside of New England was probably the one which was opened in 1825 in the City of New York. What gave the American high school its first real impetus was a law adopted in Massachusetts in 1827. Fought for by the redoubtable James Carter, this statute called upon every town of 500 families, tax-supported and under the public hand, to teach American history, algebra, geometry, bookkeeping, and surveying, besides the common run of elementary subjects.⁷²

By the 1860s some 300 high schools were reported in various places as far west as San Francisco and as far south as New Orleans. Despite its name, which is held to be of Scottish origin, the high school is indigenous to the United States while the Latin grammar school, which it superseded, was an importation from the older world.⁷³

A. J. Inglis reiterates this opinion concerning the high school in the United State:

. . . As in most other educational matters, Massachusetts led the way in the older Latin grammar school education and in the newer type of secondary education-- the public high school. It is all the more to her glory that

⁷²Meyer, p. 191.

⁷³Meyer, pp. 192-193.

no direct influence from other countries has been traced in regard to the high school system. The American high school was an institution peculiarly adapted to the needs and wants of the American people, and is an everlasting tribute to the democracy of Massachusetts and America.⁷⁴

Education progress in the South varied from state to state. By 1860, after years of toil, North Carolina succeeded in attaining a high level of education. State Superintendent Calvin Henderson Wiley, more than any other single individual, served to advance education in North Carolina. The circumstances which faced Wiley when he came to office were much like those which confronted Mann when he took the helm in Massachusetts. Under Wiley's indefatigable leadership schools were overhauled and renovated, their number augmented, and their equipment improved. So impressive was Wiley's accomplishment that other states--Virginia, South Carolina, and Georgia--asked him for help and counsel.⁷⁵

William Torrey Harris undoubtedly was the commanding figure of his pedagogical era. Harris distinguished himself first as superintendent of the St. Louis public schools (1868-80) and later as United States Commissioner of Education. He confirmed the public-school ideal, echoing Horace Mann. "The spirit of American institutions is to be looked for in the public schools to a greater degree than anywhere else," he wrote in 1871. "If the rising generation does not grow up with democratic principles, the fault will lie in the system of popular education." Later

⁷⁴ A. J. Inglis, The Rise of the High School in Massachusetts (New York: Teachers College Contributions to Education, No. 45, 1911), pp. 166.

⁷⁵ Meyer, p. 209-210.

he cautioned: "An ignorant people can be governed, but only a wise people can govern itself."⁷⁶ Harris took the position that the responsibility for education must be divided among all institutions in society.⁷⁷

Harris was strong in his convictions concerning school. "The question of the separation of Church and State," says Harris, "is the deepest political question in modern history." Harris expressed the opinion that the public school system had been regulated with a sincere desire to respect the feelings and wishes of all. "Let the community see to it that our public schools are free from sectarian bias of whatever kind, and then the church, by its appropriate instrumentalities, will best perform its mission," stated Harris.⁷⁸

John Dewey has been called the philosopher of democratic education. His unique place in history has been adequately described by his closest disciple, William Heard Kilpatrick:

Pestalozzi had prepared the ground. Froebel and Herbart had helped. Horace Mann, Henry Barnard, William T. Harris, Stanley Hall, Francis W. Parker and others had carried America further along the Pestalozzi road. But one thing was lacking. No one of these men, nor all combined, had given an adequate theory for a thoroughgoing, democratic, science-respecting education. This Professor Dewey has done.⁷⁹

⁷⁶Cremin, The Transformation of the School, pp. 15-16.

⁷⁷Ibid.

⁷⁸McCluskey, pp. 146-148.

⁷⁹McCluskey, p. 177.

John Dewey saw bold new challenges in America's transformation from an agrarian democracy, still tied to Old World tradition, to an urbanized industrial society that was creating a truly New World. He fought for a re-evaluation of the shifting social scene according to new principles, so that all men would freely share in the life of democracy. He devoted his talents to these ends.⁸⁰

By 1860 public education had made great strides toward being a success. The main lines for future development had been laid down, and the main battles had been won. At least one half of the nation's children were receiving a formal education. The people had definitely decided that they intended to establish and to maintain a series of state systems of free schools. When President Abraham Lincoln gave his famous Gettysburg address, he said, ". . . our fathers brought forth on this continent a new Nation, conceived in liberty, and dedicated to the proposition that all men are created equal."⁸¹ Lincoln could point with pride to the free public schools which guaranteed opportunity and liberty.⁸²

With the 1874 judicial decision in Kalamazoo⁸³ (that secondary schools are a legitimate function of public education and can be

⁸⁰ McCluskey, p. 177.

⁸¹ Joseph E. Bryson and Samuel H. Houston, Jr., The Supreme Court and the Legality of Using Public Funds for Religious and Secondary Schools: 1970-1984 (Charlottesville: Michie Company, 1984), p. 21.

⁸² Ibid.

⁸³ Stuart v. Kalamazoo, 30 Mich. 69 (Mich 1874).

supported by public tax), the American public school system was firmly established. Other nations were taking notice as Americans voiced the opinion in legislative assemblies and at grassroots levels that public education was important and part of the very fabric of American national life.⁸⁴

Twentieth Century Curriculum: 1900-1980

The westward movement in the latter part of the nineteenth century brought about social and cultural changes when masses of people from different backgrounds intermingled. Moving from one section of the country to another, and seeing different segments of life caused Americans to question accepted practices.

The twentieth-century American curriculum emerged from a period of unrest in the 1890s when there appeared to be a profound realization on the part of American leaders and the general public that a major transformation had been wrought in American society.⁸⁵

Urbanization, mass immigration, and immense industrial growth were themselves highly significant; but in addition, a vast increase in railroad travel and newspaper circulation meant that an awareness of change was being brought home to the American population. The average American citizen was beginning to worry about what kind of world the twentieth

⁸⁴Bryson and Houston, p. 22.

⁸⁵Herbert M. Kliebard, "Three Currents of American Curriculum Thought." Current Thought on Curriculum: 1985 ASCD Yearbook (Alexandria, Virginia: Association for Supervision and Curriculum Development, 1985), pp. 32-33.

century would bring.⁸⁶

Americans looked more and more to schools as a vehicle for addressing social problems. The sheer number of children entering school was reason for concern. In 1890 less than 7 percent of adolescents from 14 to 17 attended school. Within four decades more than half of adolescents 14 to 17 were enrolled in high school.⁸⁷

Industrial and social growth in postwar America caused lay people and educators to look at educational courses of study. Production of automobiles and other products through assembly line procedures gave impetus to industrial growth, making available more money to spend and a freer atmosphere in society. Education became synonymous with social and economic mobility.⁸⁸

Many of the formerly accepted educational practices were questioned and reassessed by legislative action or by court action. American schools reflected the racial bias that was common in the larger society. In many states, this bias was institutionalized in racially separate schools where black students received fewer months of schooling under teachers who had less training and lower pay than their white peers. Racial segregation was so deeply imbedded in American life that it seem unlikely that any political change would be strong enough to destroy the power of

⁸⁶Ibid., p. 33.

⁸⁷John R. Verduin, Jr., Cooperative Curriculum Improvement (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1967), p. 23.

⁸⁸Ibid., p. 23.

state-enforced racial segregation.⁸⁹

Significant changes occurred in the schools in 1960s. Americans had long ago decided, without too much discussion of the matter, that education would be the best vehicle through which to change society.⁹⁰ Financed in part by federal funds fostering change and innovation--open classrooms, team teaching, individualized instruction, new mathematics, and alternative curricula entered the public schools of the United States. To many parents this change brought confusion. The traditional classroom which most parents had attended almost disappeared from the public schools. Educational emphasis moved from teaching facts to understanding concepts. Decision making, thinking skills, and values clarification were part of the curriculum. In many cases, students decided what they wanted to learn, when, and how. Parents began to wonder whether their children were learning.⁹¹

Cases

As the nation grew and the population increased, individual states in the United States assumed complete authority to provide public education for children. The states were only restricted in action by the provisions of the United States Constitution and by subsequent acts of

⁸⁹Diane Ravitch, "What We've accomplished Since WWII," Principal, (January 1984), 8.

⁹⁰Ibid., p. 9.

⁹¹Joseph E. Bryson and Elizabeth W. Detty, Censorship of Public School Library Materials (Greensboro: Michie Company, 1982), p. 51.

that state's legislature.⁹²

Despite the fact that legislatures generally have constitutional authority to construct a state's system of education through statutory enactment, their authority is not without legal boundaries. Historically, federal courts, through their application of the Fourteenth Amendment guarantees and through their interpretations of federal statutes have conditioned the exercise of states' authority over educational matters.⁹³

As early as 1923, in the Meyer v. Nebraska case regarding state authority over public school curriculum, the United States Supreme Court suggested, ". . . That the State may do much, go very far, indeed, in order to improve the quality of its citizens, physically, mentally, and morally, is clear; but the individual has certain fundamental rights."⁹⁴

The attitude of the courts toward questions concerning textbooks and methods of instruction has been not to interfere with procedures established by school authorities. This attitude prevailed in Guernsey v. Pitkin⁹⁵ and in Wulff v. Inhabitants of Wakefield.⁹⁶

In the 1930 case, Cochran v. Louisiana State Board of Education,⁹⁷

⁹²Cubberly, pp. 680-688.

⁹³H.C. Hudgins, Jr. and Richard S. Vacca, Law and Education: Contemporary Issues and Court Decisions (Charlottesville: The Michie Company, 1979), p. 15.

⁹⁴Meyer v. Nebraska, 262 U.S. 390, 43 S. Ct. 625, 67 L. Ed. 1042 (1923).

⁹⁵Guernsey v. Pitkin, 32 Vt. 224, 76 AM Dec 171 (1859).

⁹⁶Wulff v. Inhabitants of Wakefield, 221 Mass. 427, 109 NE 358 (1915).

⁹⁷Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930).

the United States Supreme Court furthered the "child benefit theory" in the use of public money for private sectarian schools. The Supreme Court upheld a Louisiana law which provided "school books for school children free of cost" to all children in the state including children attending private school.⁹⁸

In the 1948 case, McCollum v. Board of Education,⁹⁹ the United States Supreme Court struck down a program of released time for religious education in Illinois as an unconstitutional use of school premises and school sanction for religious education. School pupils choosing not to participate continued secular instruction.¹⁰⁰

Over the past twenty-five years a child's chance to become involved in public education provided by a state has (primarily through court action) become a matter of legal entitlement. This judicial trend began with the United States Supreme Court's benchmark decision in Brown v. Board of Education.¹⁰¹ In that decision the court established the notion that "today education is perhaps the most important function of state and local governments . . . Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms." The judicial mold was thus set for

⁹⁸Ibid.

⁹⁹McCollum v. Board of Education, 11 333 U.S. 203, 68 S. Ct. 461 (1948).

¹⁰⁰Ibid.

¹⁰¹Brown v. Board of Education, 347 U.S. 483, 74 S. Ct. 686, 98 L. ed. 873 (1954).

a series of landmark decisions to follow. Through such cases as Tinker v. Des Moines, P.A.R.C.v. Commonwealth of Pennsylvania, Mills v. Board of Education, and others, the legal entitlement of children to be included in public schools became a reality.¹⁰²

In 1960 the United States Supreme Court remanded the first decision of a federal court on Bible reading in public schools. A United States District Court declared unconstitutional a Pennsylvania statute requiring Bible reading with unison recitation of the Lord's Prayer.¹⁰³

In 1962 the United States Supreme Court addressed the constitutionality of the New York State Board of Regents' mandated prayer. The prayer was declared unconstitutional. The court asserted that the government should not compose official prayers for the schools, on the grounds that it violated the establishment clause of the First Amendment.¹⁰⁴

In the 1968 Epperson v. Arkansas, landmark Supreme Court decision, the court insisted that the Arkansas legislative enactment prohibiting teaching the theory of evolution was unconstitutional.¹⁰⁵

¹⁰²Tinker v. Des Moines, 393 U.S. 503, 89 S.Ct. 733, 21 L. Ed. 2d 731 (1969). P.A.R.C. v. Pennsylvania, 334 F. Supp. 1257 (E. D. Pa. 1972). Mills v. Board of Education, 348 F. Supp. 866 (D.C.D.C. 1972).

¹⁰³Schempp v. School District of Abington Tp., 177 F. Supp., 398 (E.D. pa. 1959).

¹⁰⁴Engel v. Vitale, 370 U.S. 421 (1962).

¹⁰⁵Epperson v. Arkansas, 393 U.S. 97, 21 LEd (2d) 228, 89 Sct 266 (1968.)

In 1970 a district court ruled on freedom from arbitrary censorship of classroom materials. The court concluded that the plaintiff's dismissal constituted an unwarranted invasion of her First Amendment right to academic freedom.¹⁰⁶

It was determined in the 1973 San Antonio Independent School District v. Rodriguez case, that "the importance of a service performed by the State does not determine whether it must be regarded as fundamental for purposes of examination under the Equal Protection Clause."¹⁰⁷

In the 1974 Lau v. Nichols case the United States Supreme Court ruled that a school system's decision not to offer remedial English to a group of Chinese students was a violation of the students' rights to equal educational opportunities.¹⁰⁸

In the 1982 case, Island Trees v. Pico, which focused on removing "objectional" books from a school library, the Supreme Court reached a 5-4 decision. The decision itself points out that the highest court in the land is divided on public school censorship issues.¹⁰⁹

A review of pertinent literature reveals that from the early beginnings of the public school system in the United States, the higher courts of the various states have been asked to make a determination in controversies ensuing from problems pertaining to the curriculum of public

¹⁰⁶Parducci v. Rutland (Ala), 316 F Supp 352 (1970).

¹⁰⁷San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

¹⁰⁸Lau v. Nichols, 94 S. Ct. 786 (1974).

¹⁰⁹Board of Education v. Pico, Case No. 80-2043, 50 L.W. 4831 (1982).

schools. Unless it appears that the act of a school agency has been unconstitutional or illegal or unless an action has amounted to an abuse of the power vested in the school authority, the courts normally do not interfere with the discriminatory action of school officials.

In summation, the local school board may make all reasonable rules and regulations necessary for complete control of the curriculum, subject only to the constitutional and statutory provisions of the state.

CHAPTER III

STATE CURRICULUM MANDATES

All states have developed a norm of a universal right to education. The most obvious illustration of this norm is the existence of compulsory attendance laws in all states in the United States. The state's authority over the pupil is expressed in the state constitutions and in the statutes. Consequently, much controversy and litigation have evolved in regard to disputes between the schools and the parents of school age children.¹

State constitutions and state statutes establish the framework of state government and provide the largest, most detailed source of law affecting the operation of public schools. Excerpts from all the state constitutions reveal that there is considerable similarity in the basic provisions for establishing public schools.²

Each of the fifty states, with the exception of Connecticut, has at least one constitutional mandate requiring the legislature to provide for a system of free public schools. Excerpts from the 50 state constitutions follow:

¹Stephen R. Goldstein and E. Gordon Gee, Law and Public Education (Charlottesville, Virginia: The Michie Company, 1980), p. 11.

²Edward C. Bolmeier, The School in the Legal Structure (Cincinnati: The W. H. Anderson Company, 1973), pp. 89-97.

Alabama. The legislature shall establish, organize and maintain a liberal system of public schools throughout the State for the benefit of the children thereof between the ages of seven and twenty-one years . . .³

Alaska. The legislature shall by general law establish and maintain a system of public schools open to all children of the state . . .⁴

Arizona. Provision shall be made by law for the establishment and maintenance of a system of public schools which shall be open to all the children of the state and be free from sectarian control.⁵

Arkansas. Intelligence and virtue being the safeguards of liberty and bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free schools, whereby all persons in the State between ages of six and twenty-one years may receive gratuitous instruction.⁶

California. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year.⁷

Colorado. The General Assembly shall, as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state . . .⁸

³Alabama Constitution, Art. XIV, 256.

⁴Alaska Constitution, Art. VII, 1.

⁵Arizona Constitution, Art. XX, Ordinance 2.

⁶Arkansas Constitution, Art. XIV, 1.

⁷California Constitution, Art. IX, 5.

⁸Colorado Constitution, Art. IX, 2.

Connecticut. The fund, called the school fund, shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public, or common schools throughout the state, and for the equal benefit of all the people thereof.⁹

Delaware. The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools.¹⁰

Florida. The Legislature shall provide for a uniform system of public free schools and shall provide for the liberal maintenance of the same.¹¹

Georgia. There shall be a thorough system of common schools for the education of children, as nearly uniform as practicable, the expense of which shall be provided for by taxation, or otherwise . . .¹²

Hawaii. The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control. . . . There should be no segregation in public educational institutions because of race, religion or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution.¹³

⁹Connecticut Constitution, Art. VII, 2.

¹⁰Delaware Constitution, Art. X, 1.

¹¹Florida Constitution, Art. XII, 1.

¹²Georgia Constitution, Art. VIII, 1.

¹³Hawaii Constitution, Art. IX, 1.

Idaho. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools.¹⁴

Illinois. The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common school education . . .¹⁵

Indiana. It shall be the duty of the General Assembly to encourage by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.¹⁶

Iowa. The Board of Education shall provide for the education of all the youths of the State, through a system of common schools, and such schools shall be organized and kept in each school district at least three months in each year . . .¹⁷

Kansas. The Legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade.¹⁸

¹⁴Idaho Constitution, Art. IX, 1.

¹⁵Illinois Constitution, Art. VIII, 1.

¹⁶Indiana Constitution, Art. VIII, 1.

¹⁷Iowa Constitution, Art. IX, 12.

¹⁸Kansas Constitution, Art. VI, 2.

Kentucky. The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state.¹⁹

Louisiana. The educational system of the State shall consist of all free public schools, and all institutions of learning, supported in whole or in part by appropriation of public funds. Separate free schools shall be maintained for the education of white and colored children between the ages of six and eighteen years; . . .²⁰

Maine. The Legislatures are authorized, and it shall be their duty to require the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools . . .²¹

Maryland. The General Assembly, at its first session after the adoption of this constitution, shall, by law, establish throughout the State a thorough and efficient system of free public schools; and shall provide by taxation, or otherwise, for their maintenance.²²

Massachusetts. It shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences and all seminaries of them; especially the university of Cambridge, public schools and grammar schools in the towns . . .²³

¹⁹Kentucky Constitution, Section 183.

²⁰Louisiana Constitution, Art. XII, 1.

²¹Maine Constitution, Art. VIII.

²²Maryland Constitution, Art. VIII, 1.

²³Massachusetts Constitution, Ch. V, p. 2.

Michigan. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and means of education shall forever be encouraged. . . The Legislature shall continue a system of primary schools, whereby every school district in the State shall provide for the education of its pupils without charge for tuition. . .²⁴

Minnesota. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools. . . The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the State . . .²⁵

Mississippi. It shall be the duty of the Legislature to encourage by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement, by establishing a uniform system of free public schools by taxation or otherwise, for all children between the ages of six and twenty-one years, and as soon as practicable, to establish schools of higher grade.²⁶

Missouri. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people,

²⁴Michigan Constitution, Art. XI. 9.

²⁵Minnesota Constitution, Art. VIII, 3.

²⁶Mississippi Constitution, Art. VIII, 201.

the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state between the ages of six and twenty years.²⁷

Montana. It shall be the duty of the legislative Assembly of Montana to establish and maintain a general, uniform and thorough system of public, free common schools. . . That provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said State of Montana and free from sectarian control.²⁸

Nebraska. . . . it shall be the duty of the Legislature to pass suitable laws . . . to encourage schools and the means of instruction . . . The Legislature shall provide for the free instruction in the common schools of this State of all persons between the ages of five and twenty-one years.²⁹

Nevada. The legislature shall provide for a uniform system of common schools, by which a school shall be established and maintained in each school district at least six months in every year. . .³⁰

New Hampshire. It shall be the duty of the Legislature and Magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools.³¹

²⁷Missouri Constitution, Art. XI, 1.

²⁸Montana Constitution, Art. XI, 1; Ordinance I, 4.

²⁹Nebraska Constitution, Art. I, 4; Art. VII, 6.

³⁰Nevada Constitution, Art. XI, 2.

³¹New Hampshire Constitution, Pt. 2, Art. 83.

New Jersey. The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years.³²

New Mexico. Provision shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of the State and free from sectarian control³³

New York. The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.³⁴

North Carolina. The General Assembly . . . shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years.³⁵

North Dakota. The legislative assembly shall provide . . . for a uniform system of free public schools throughout the State, beginning with the primary and extending throughout all grades up and including the normal collegiate course.³⁶

Ohio. The general assembly shall make such provisions . . . as . . . will secure a thorough and efficient system of common schools

³²New Jersey Constitution, Art. VIII, 4.

³³New Mexico Constitution, Art. XXI, 4.

³⁴New York Constitution, Art. XI, 1.

³⁵North Carolina Constitution, Art. IX, 2.

³⁶North Dakota Constitution, Art. VIII, 148.

throughout the state. . . .³⁷

Oklahoma. Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and free from sectarian control³⁸

Oregon. The Legislative Assembly shall provide by law for the establishment of a uniform and general system of common schools.³⁹

Pennsylvania. The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated⁴⁰

Rhode Island. The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the General Assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education.⁴¹

South Carolina. The General Assembly shall provide for a liberal system of free public schools for all children between the ages of six and twenty-one years⁴²

³⁷Ohio Constitution, Art. VI, 2.

³⁸Oklahoma Constitution, Art. I, 5 and Art. XIII, 1.

³⁹Oregon Constitution, Art. VIII, 3.

⁴⁰Pennsylvania Constitution, Art. X, 1.

⁴¹Rhode Island Constitution, Art. XII, 1.

⁴²South Carolina Constitution, Art. XI, 5.

South Dakota. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the Legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.⁴³

Tennessee. Knowledge, learning and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conclusive to the promotion of this end, it shall be the duty of the General Assembly in all future periods of this government, to cherish literature and science.⁴⁴

Texas. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.⁴⁵

Utah. The Legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all children of the State, and be free from sectarian control.⁴⁶

⁴³South Dakota Constitution, Art. VIII, 1.

⁴⁴Tennessee Constitution, Art. XI, 12.

⁴⁵Texas Constitution, Art. VII, 1.

⁴⁶Utah Constitution, Art. X, 1.

Vermont. . . . A competent number of schools ought to be maintained in each town, for the convenient instruction of youth; and one or more grammar schools to be incorporated and properly supported, in each county in this State⁴⁷

Virginia. The General Assembly shall establish and maintain an efficient system of public free schools throughout the State.⁴⁸

Washington. Provision shall be made for the establishment and maintenance of systems of public schools free from sectarian control which shall be open to all the children of said state.⁴⁹

West Virginia. The Legislature shall provide, by general law, for a thorough and efficient system of free schools.⁵⁰

Wisconsin. The Legislature shall provide by law for the establishment of district schools, which shall be nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years; and no sectarian instruction shall be allowed therein.⁵¹

Wyoming. The right of the citizens to opportunities for education should have practical recognition. The Legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts.⁵²

⁴⁷Vermont Constitution, Ch. II, 64.

⁴⁸Virginia Constitution, Art. IX, 129.

⁴⁹Washington Constitution, Art. XXVI, 4.

⁵⁰West Virginia Constitution, Art. XII, 1.

⁵¹Wisconsin Constitution, Art I, 3.

⁵²Wyoming Constitution, Art. I, 3.

Some authorities in the field of school law believe the constitutional provisions cited above are adequate. They contend that additional detailed provisions would be superfluous and even detrimental. Several of the constitutions do come close to having only the one provision pertaining to a public school system which mandates its establishment and support. Other state constitutions, even after amendment, have numerous detailed provisions pertaining to the public schools.⁵³

State legislatures have traditionally adopted statutes that specify what should be taught in the public schools. State education departments have taken the statutes and used them as a basis for developing rules and regulations governing the curriculum. Together, the statutes and regulations constitute the state's curricular mandates.⁵⁴

Practically every state has enacted legislation requiring certain subject matters to be included in the public school curriculum. Provisions can be found that prescribe instruction in the United States Constitution, the state constitution, American history, civics, drug education, patriotism, government, physical education, health, morals, temperance, bilingual education, consumer education, reading, and math. Most of the statutes pertaining to the curriculum and its administration are rather general with authority delegated to local boards or professional school personnel to determine the specifics.⁵⁵

⁵³Bolmeier, p. 97.

⁵⁴Bolmeier, pp. 86-87.

⁵⁵Ibid.

State school codes reflect both the differences in states' economic and physical conditions and the time at which they were written. The most common provisions, aside from those requiring compulsory attendance, are those requiring that course materials be presented in English with English textbooks. This statute was spurred by anti-German sentiment aroused by World War I.⁵⁶ The United States Supreme Court ruled in the 1923 case, Meyer v. Nebraska,⁵⁷ that a statute which prohibited the teaching of foreign languages to elementary school children violated the guarantee of liberty in the Fourteenth Amendment to the United States Constitution.⁵⁸

Since 1983 state school codes have been subjected to a flurry of changes prompted by legislation aimed at improving the public school curriculum. Educators around the country are turning to the task of carrying out one of the most widespread attempts to improve American public education in its history.⁵⁹

Table 5 shows that since January 1983, at least 40 states, including Arkansas, California, Illinois, Pennsylvania, South Carolina, and Virginia, have increased the number of academic courses required for a

⁵⁶James A. Rapp, Education Law, Volume 2 (New York: Matthew Bender Company, 1985), p. 174.

⁵⁷Meyer v. Nebraska, 262 U.S. 390, 43 S. Ct. 625, 67 L. Ed. 1042 (1923).

⁵⁸Ibid.

⁵⁹Edward B. Fiske, "Amid Obstacles, Educators Aiming to Improve School." New York Times, 8 September 1984, p. 1.

TABLE 5

*Changes in Curriculum
and Graduation
Requirements

	ALA.	ARIZ.	ARK.	ALASKA	CALIF.	COLO.	CONN.	DEL.	FLA.	GA.	HAWAII	IDAHO	ILL.	IND.	IOWA	KAN.	KY.	LA.	ME.	MD.	MASS.	MICH.	MINN.	MISS.	MO.
Changes in Curriculum and textbooks	X	X	X	X	X			X	X	X	X	X		X	X				X	X			X		X
Increase in school graduation requirements	X	X	X	X	X	X	X	X	X	X		X	X	X		X	X	X	X						X
	MONT.	NEB.	NEV.	N.H.	N.J.	N.M.	N.Y.	N.C.	N.D.	OHIO	OKLA.	ORE.	PA.	R.I.	S.C.	S.D.	TENN.	TEX.	UTAH	VT.	VA.	WASH.	W.VA.	WIS.	WYO.
Changes in Curriculum and textbooks			X				X	X	X				X	X	X	X		X	X	X	X	X	X	X	
Increase in school graduation requirements	X	X	X		X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X		X	

* Since January 1983- September 1984, at least 32 states have changed curriculum standards or adopted new procedures for choosing textbooks, while at least 40 states have increased the number of academic courses required for a high school diploma.

high school diploma, while 32 have changed curriculum standards or adopted new procedures for choosing textbooks. Examples of recent legislation follow:

Arkansas. In 1984 the Arkansas legislature mandated that each school district develop and submit a six-year education improvement plan by July 1, 1985. The department is also required to develop a statewide program to improve reading skills.⁶⁰

California. California high school students, commencing with the 1986-87 school year, must complete these requirements: 3 courses in English; 2 courses in mathematics; 2 courses in science, including biological and physical sciences; 3 courses in social studies, including United States history and geography; world history, culture, and geography; and American government, civics, and economics; 1 course in visual or performing arts or foreign language; 2 courses in physical education.⁶¹

Illinois. In 1983 Illinois adopted specific course requirements for high school students. Beginning with pupils entering the ninth grade in the 1984-85 school year, students are required to complete 3 years of language arts, 2 years of math, 1 year of science, 2 years of social studies, 1 year of United States history, 1 year of art, music, vocational education, or a foreign language.⁶²

⁶⁰Arkansas, Statutes Annotated, Section 80.

⁶¹California, Education Code, Section 51225.3.

⁶²Illinois, Smith Hurd Annotated, Section 27.

Pennsylvania. Pennsylvania has established new statewide curriculum objectives that each school must meet.⁶³

South Carolina. By the 1989-90 school year, Black history will be required in South Carolina. The math requirement has been increased to 3 years and all school districts are required to emphasize higher order problem solving skills.⁶⁴

Virginia. Virginia has new procedures for adopting textbooks and is setting up a center to evaluate educational computer software.⁶⁵

Table 6 shows a state by state listing of the number of curriculum mandates required in each state in the United States. No states have identical legislated subject requirements and there is a lack of mandated curricular consistency between neighboring states. An example of this is shown by comparing the neighboring states of Tennessee, Virginia, and West Virginia. The total number of curricular offerings are 23, 25, and 12 respectively, with the only commonalities in subject matter among the three states being United States Constitution, United States history, and drug and alcohol education.

Tennessee. The 23 curricular mandates include flag study, safety, moment of silence, Black history, character education, English, spelling, reading, writing, arithmetic, geography, state history, state constitution, United States government, United States history, United

⁶³Pennsylvania, Purdon's Statutes Annotated, Section 15.

⁶⁴South Carolina, Codes of Law, Section 59.

⁶⁵Virginia, Code, Section 22.

TABLE 6 (continued)

Curriculum	ALA.	ALASKA	ARIZ.	ARK.	CAL.	COLO.	CONN.	DEL.	FLA.	GA.	HAWAII	IDAHO	ILL.	IND.	IOWA	KAN.	KY.	LA.	MAINE	MD.	MASS.	MICH.	MINN.	MISS.	MO.	MONT.	NEB.	NEV.	N.H.	N.J.	N.M.	N.Y.	N.C.	N.D.	OHIO	OKLA.	ORE.	PA.	R.I.	S.C.	S.D.	TENN.	TEX.	UTAH	VT.	VA.	WASH.	W.VA.	WIS.	WYO.	TOTAL								
Public Safety					X	X			X			X	X					X	X										X		X	X	X	X		X	X	X	X	X										13									
Fire Arms			X																																																		1						
Fire Prevention				X	X																									X	X	X	X										X	X								10							
Nature Study			X																																																		1						
Science	X				X	X	X		X	X			X	X	X		X									X			X	X	X	X	X	X	X	X							X	X		X	X					22							
Balanced Treat. Science				X									X					X																										X	X		X	X					2						
Conservation				X	X							X	X		X				X		X					X			X		X	X	X																				11						
Cultures					X	X						X	X		X							X								X																X			X				10						
Geography					X	X							X	X		X			X											X	X	X											X			X	X							13					
World History				X				X	X																					X																	X	X						7					
Local History																				X																																		1					
Black History												X																		X													X	X										4					
Communism	X																																																						1				
American Flag	X			X	X							X	X	X	X				X	X		X	X							X	X														X			X	X						18				
Declaration Independence												X	X						X	X		X								X																									4				
U.S. History			X	X	X	X	X		X	X		X	X	X	X	X		X	X	X	X	X	X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	34				
State History			X	X	X	X						X	X	X		X			X	X	X	X				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	26				
U.S. Constitution	X		X	X	X							X	X	X	X	X		X	X	X	X	X		X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	28				
State Constitution			X	X								X	X		X				X	X	X	X		X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	21				
Civics				X	X							X	X	X	X	X		X	X	X	X								X	X																						X				12			
U.S. Government	X		X	X	X	X		X	X		X	X	X	X		X			X	X	X	X				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	26			
State Government			X	X								X	X		X				X	X	X	X						X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	15			
Local Government			X									X			X				X	X	X							X		X																										6			
Voting Skills								X				X	X	X		X			X	X								X																									X			9			
Military Science																		X																																						2			
Morals				X	X						X	X		X								X								X									X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	14		
Citizenship					X	X		X	X		X	X	X	X	X	X		X	X	X							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	25	
Social Studies	X			X	X	X						X	X	X	X	X											X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	16		
Patriotism	X		X	X								X	X	X	X	X		X	X	X	X	X	X		X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	14

States Constitution, hygiene and sanitation, physical education, vocal music, drawing, effects of narcotics and drugs, free enterprise.⁶⁶

Virginia. The 25 curricular mandates include spelling, listening, reading, writing, arithmetic, speaking, English grammar, geography, health, physical education, drawing, civil government, United States history, United States Constitution, Declaration of Independence, Virginia Declaration of Rights, state history, flag education, moment of silence, accident prevention, drugs and drug abuse, moral education, citizenship, fire prevention, and highway safety.⁶⁷

West Virginia. The 12 curricular mandates include fire prevention, United State history, civics, United States Constitution, state constitution, Americanism, United States government, state government, temperance, drug and alcohol education, health and hygiene and English.⁶⁸

Table 7 shows the ranking of states with the greatest number of curricular mandates. Iowa and California have the greatest number of legislated subjects, (43 and 38 respectively), followed by New York (33) and Wisconsin (33). These states appear to have a sufficient category of subjects and a homogeneous curriculum to meet the requirements for a modern and relevant curriculum for students.

Those states with the fewest number of mandated curricular subjects are shown in Table 8 and include Alaska, Delaware, Hawaii, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming. These states

⁶⁶Tennessee, Code Annotated, Section 49.

⁶⁷Virginia, Code, Section 22.

⁶⁸West Virginia, Code Annotated, Section 18.

TABLE 7

* Ranking of States With Greatest
Number of Curriculum
Mandates

State	Number	State	Number
Iowa	43	Colorado	24
California	38	New Jersey	24
New York	33	Illinois	23
Oregon	33	Oklahoma	23
Wisconsin	33	South Carolina	23
Georgia	30	Tennessee	23
Indiana	30	Washington	23
Ohio	29	Pennsylvania	22
Connecticut	26	Florida	21
Texas	26	North Carolina	21
Virginia	25		

* 20 or more mandates

TABLE 8

* Ranking of States With Fewest
Number of Curriculum
Mandates

State	Number	State	Number
Montana	0	North Dakota	7
New Mexico	2	Maryland	8
Wyoming	2	Alaska	9
Hawaii	3	Massachusetts	10
Delaware	4	Louisiana	10
Missouri	4	South Dakota	10
Mississippi	7	Utah	10

* 10 or fewer mandates

tend to prescribe non-academic subjects such as career education, consumer education, health, nutrition, physical education, morals, bilingual education, and courses that prepare students for life and careers, or they prescribe subjects that deal with state and United States government. This point is proven by listing the curricular requirements for Delaware, Hawaii, Louisiana, Maryland, and Massachusetts:

Delaware. Delaware requires 4 subjects including hygiene, physiology, effects of alcoholic drinks, stimulants and narcotics upon the human system and English.⁶⁹

Hawaii. Hawaii requires 3 subjects including written composition, oral expression, and spelling.⁷⁰

Louisiana. Louisiana requires 10 subjects including United States Constitution, drug and alcohol abuse, kindness to animals, military science, Declaration of Independence and Federalist Papers, free enterprise, breast examination and cervical cancer detection, civics, physical education, balanced treatment of creation-science and evolution science.⁷¹

Maryland. Maryland requires 8 subjects including health, physical education, drug and alcohol education, safety, American flag, patriotism, driver education, and moment of silence.⁷²

⁶⁹Delaware, Code Annotated, Section 101.

⁷⁰Hawaii, Revised Statutes, Section 298.2.

⁷¹Louisiana, West's Statutes Annotated, Section 17.

⁷²Maryland, Annotated Laws, Section 7.

Massachusetts. Massachusetts requires 10 subjects including United States Constitution, state constitution, American history, civics, local history and government, physical education, citizenship, bilingual education, and moment of silence.⁷³

Surprisingly, only 15 states provide statutes requiring that the 3 R's be taught, as is shown in Table 9. (The 3 R's include reading, writing, grammar, spelling, and math which were originally referred to as reading, 'riting, and 'rithmetic.) Even though most states do not specify by statutes that the 3 R's will be taught, it is commonly believed that the 3 R's are the foundation for the entire curriculum.

The highest percentages of subjects legislated are in the areas of health and physical education and national and state governmental systems. Table 10 shows that usually the states that require health also require physical education. This is true for 32 states. Exceptions to this rule include Kansas, Mississippi, and Utah that require health but not physical education, and Arkansas, Illinois, Massachusetts, South Carolina, and Tennessee that require physical education but not health.

There are statutes in practically every state designed to assure that all students acquire a basic familiarity with the American legal-political framework of the governmental system. This is hardly surprising since one of the original purposes of public education in America was to prepare citizens for the continuation of a free and democratic citizenship. This concern manifests itself in a variety of courses and

⁷³Massachusetts, Annotated Laws, Section 71.

TABLE 9
States Prescribing
The 3-R's

State	Reading	Writing	Grammar	Spelling	Math
California	x	x	x	x	x
Colorado	x	x	x	x	x
Connecticut	x	x	x	x	x
Iowa	x	x	x	x	x
Kansas	x	x	x	x	x
Kentucky	x	x	x	x	x
New York	x	x	x	x	x
Ohio	x	x	x	x	x
Oregon	x	x	x	x	x
Pennsylvania	x	x	x	x	x
South Carolina	x	x	x	x	x
Tennessee	x	x	x	x	x
Virginia	x	x	x	x	x
Washington	x	x	x	x	x
Wisconsin	x	x	x	x	x
Total	15	15	15	15	15

TABLE 10

States Prescribing Health*
and Physical
Education**

State	Phys.Ed.	Health	State	Phys.Ed.	Health
Alabama	x	x	Mississippi		x
Alaska	x	x	Nebraska	x	x
Arkansas	x		Nevada	x	x
California	x	x	New Jersey	x	x
Colorado	x	x	New York	x	x
Connecticut	x	x	North Carolina	x	x
Florida	x	x	North Dakota	x	x
Georgia	x	x	Ohio	x	x
Idaho	x	x	Oklahoma	x	x
Illinois	x		Oregon	x	x
Indiana	x	x	Pennsylvania	x	x
Iowa	x	x	Rhode Island	x	x
Kansas		x	South Carolina	x	
Kentucky	x	x	Tennessee	x	
Louisiana	x	x	Texas	x	x
Maine	x	x	Utah		x
Maryland	x	x	Vermont	x	x
Massachusetts	x		Virginia	x	x
Michigan	x	x	Washington	x	x
Minnesota	x	x	Wisconsin	x	x

* Grand total prescribing health education...35 states

** Grand total prescribing physical education...37 states

approaches. Table 11 shows which states require courses in United States history, state history, United States constitution and state constitution. Statutes in 34 states prescribe the study of histories. Among those states, 25 prescribe the study of both state and United States history, with 8 prescribing the study of the United States history only, while New Mexico requires state history only. Statutes in 28 states prescribe the study of constitution, with 21 states prescribing the study of both United States and state constitutions. Eight states prescribe the study of the United States constitution only. The mandates found in the Arizona and Illinois statutes are typical of the many history and constitution mandates:

Arizona. Arizona requires that all schools give instruction in the essentials, sources, and history of the constitutions of the United States and Arizona and instruction in American institutions and ideals and in the history of Arizona.⁷⁴

Illinois. Illinois requires that all schools teach the Constitution of the United States and the Constitution of the State of Illinois. Another requirement is that the history of the United States be taught, along with a study of the role and contributions of the different cultures to the nation and state.⁷⁵

Table 12 shows that 31 states prescribe courses in civics, United States government, and state government. There are only 6 states that

⁷⁴Arizona, Revised Statutes, Section 15.

⁷⁵Illinois, Annotated Statutes, Section 27.

TABLE 11
States Requiring Courses
in History and
Constitution

State	U.S. History	State History	U.S. Constitution	State Constitution
Alabama			x	
Arizona	x	x	x	x
Arkansas	x	x		
California	x	x	x	x
Colorado	x	x	x	
Connecticut	x			
Florida	x			
Georgia	x			
Idaho			x	
Illinois	x		x	x
Indiana	x	x	x	x
Iowa	x	x		
Kansas	x	x	x	
Kentucky	x			
Louisiana			x	
Maine	x	x	x	x
Massachusetts	x		x	x
Michigan	x	x	x	x
Minnesota	x	x	x	
Missouri	x		x	x
Nevada	x	x	x	x
New Hampshire	x	x		
New Jersey	x			
New Mexico		x		
New York	x	x	x	x
Ohio	x	x	x	x
Oklahoma	x	x		
Oregon	x		x	x
Pennsylvania	x	x		
Rhode Island	x	x	x	x
South Carolina	x	x	x	x
South Dakota			x	x
Tennessee	x	x	x	x
Texas	x	x	x	x
Utah			x	x
Vermont	x	x		

TABLE 11(continued)

States Requiring Courses
in History and
Constitution

State	U.S. History	State History	U.S. Constitution	State Constitution
Virginia	x	x	x	
Washington	x	x		
West Virginia	x	x	x	x
Wisconsin	x	x	x	x
Wyoming			x	x
Total	34	26	28	21

TABLE 12
States Requiring
Government and
Civics

State	Civics	U.S. Government	State Government
Alabama		x	
Arkansas	x	x	x
California	x	x	x
Colorado		x	
Connecticut		x	
Florida		x	
Georgia		x	
Illinois		x	
Indiana	x	x	x
Iowa		x	x
Kansas	x	x	
Louisiana	x		
Maine	x		
Massachusetts	x		
Michigan	x	x	x
Nevada		x	
New Hampshire		x	x
New Jersey	x		
New York	x	x	
North Carolina		x	x
Ohio		x	x
Oklahoma		x	x
Oregon		x	
Pennsylvania	x	x	x
Rhode Island		x	x
South Dakota			x
Tennessee		x	
Vermont		x	x
Virginia		x	
Washington		x	x
West Virginia	x	x	x
Total	12	26	15

require all three subjects be taught. Those states are Arkansas, California, Indiana, Michigan, Pennsylvania, and West Virginia.

An analysis of Table 11 and Table 12 shows that there are 8 states that do not require the teaching of the constitutions, history, government, or civics. Those states are Alaska, Delaware, Hawaii, Maryland, Mississippi, Montana, Nebraska, and North Dakota. However, 3 of these states, Alaska, Nebraska, and North Dakota, do require that social studies be taught, leaving the specific decision of which course to the local school board.⁷⁶ Statutes in several states require that particular attention be given to documents such as the Federalist Paper, Bill of Rights, and Declaration of Independence.⁷⁷

Ten states which are prone to forest fires because of vast timberland boundaries include California, New York, Ohio, Rhode Island, Oregon, Arkansas, North Carolina, South Carolina, Virginia, and West Virginia. These states have legislated fire prevention to be taught in the schools. Excerpts from the statutes in Rhode Island and South Carolina follow:

Rhode Island. The department of education is hereby empowered and directed to prescribe a course of study in fire prevention for use in the public schools of the state, dealing with the protection of lives and property against loss or damage as a result of preventable fire.⁷⁸

⁷⁶Alaska, Statutes, Section 14; Nebraska, Revised Statutes, Section 005; and North Dakota, Century Code, Section 15.

⁷⁷Louisiana, Statutes Annotated, Section 17:268; Maine, Revised Statutes Annotated, Section 20-A:4601; Minnesota, Statutes Annotated, Section 126.06; and Virginia, Code, Section 22.1-201.

⁷⁸Rhode Island, General Laws, Section 16-22-5.

South Carolina. . . . The State Board of Education shall provide for instruction in fire prevention in the elementary public schools of the State. . . .⁷⁹

The range of courses or topics that the statutes prescribe is only part of the story. To understand how the statutes are interpreted by local boards of education, one needs to know how specific the statutes are. Some statutes explicitly detail courses of study while others provide only general guidelines. Examples are provided from Illinois, Iowa, Texas, and New Jersey:

Illinois. Illinois statutes are explicit about the teaching of United States history, providing that:

. . . The teaching of history shall have as one of its objectives the imparting to pupils of a comprehensive idea of our democratic form of government and the principles for which our government stands as regards other nations, including the studying of the place of our government in world-wide movements and the leaders thereof, with particular stress upon the basic principles and ideals of our representative form of government. The teaching of history shall include a study of the role and contributions of American Negroes and other ethnic groups including but not restricted to Polish, Lithuanian, German, Hungarian, Irish, Bohemian, Russian, Albanian, Italian, Czechoslovakian, French Scots, etc., in the history of this country and this State. . . .⁸⁰

Iowa. Iowa law specifies that students taking courses in Iowa and the United States government will receive instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots

⁷⁹South Carolina, Code of Laws, Section 59-29-70.

⁸⁰Illinois, Annotated Statutes, Section 27.21.

and voting machines in the election process, and the method of acquiring and casting an absentee ballot.⁸¹

Texas. A Texas statute simply instructs that the history of Texas shall be taught in all public schools.⁸²

New Jersey. In New Jersey, instead of instructing the state education department to pursue specifics, a statute calls on local boards of education to adopt courses of study in a variety of subject areas including community civics, the geography, history, and civics of New Jersey, and the privileges and responsibilities of citizenship as they relate to community and national welfare.⁸³

Usually state legislatures provide only the barest directives in the statutes, seldom going beyond listing broad curriculum areas. The content and emphasis of instruction has usually been left to professional educators in state departments and local districts. Additional course offerings may be determined at the local level, according to statutes cited in this study.

Subject area requirements are but one part of the statutes governing the curriculum. Legislatures often indicate which values and attitudes they wish to foster and they frequently use the social studies curriculum to accomplish the instruction. A survey of the states reveals

⁸¹Iowa, Code Annotated, Section 257.25.

⁸²Texas, Statutes, Section 21.109.

⁸³New Jersey, Statutes Annotated, Section 18A:35-3.

that 38 states have statutes requiring the attainment of specific values and attitudes, including morals, citizenship, patriotism, and humane treatment of animals as Table 13 shows. Fourteen states assign teachers the responsibility for building the moral character of students. Statutes dating back several generations tend to stress, in rather quaint language, such characteristics as temperance and purity. South Dakota, South Carolina, and Minnesota require the teaching of morals:

South Dakota. A South Dakota statute requires that special moral instruction should be presented to students, stressing the importance of truthfulness, temperance, purity, public spirit, patriotism, respect for honest labor, obedience to parents, respect for the contributions of minority and ethnic groups to the heritage of South Dakota, and due deference to old age.⁸⁴

South Carolina. A South Carolina statute speaks of teaching "moral and good behavior."⁸⁵

Minnesota. Minnesota states in its statute, "Instruction shall be given in all public schools in morals. . ." ⁸⁶

Table 13 shows that 25 states require that citizenship be taught in the public schools. Excerpts from Indiana and West Virginia follow:

Indiana. Indiana charges teachers to emphasize the virtues of strong values and attitudes in the same statute, directing each teacher:

⁸⁴South Dakota, Codified Laws, Section 13-33-6.

⁸⁵South Carolina, Code of Laws, Section 59-29-10.

⁸⁶Minnesota, Statutes Annotated, Section 126.03.

TABLE 13

States Requiring Specific
Values and
Attitudes

State	Morals	Citizenship	Patriotism	Humane Treatment Animals
Alabama			x	x
Arkansas			x	
California	x		x	
Colorado	x	x		
Connecticut		x		
Florida		x		
Georgia		x		
Idaho	x	x		
Illinois			x	
Indiana	x	x		
Iowa		x		
Kansas		x	x	
Kentucky		x		
Louisiana				x
Maine		x	x	
Maryland			x	
Massachusetts		x		
Michigan		x		
Minnesota	x		x	
Mississippi			x	
Nevada		x	x	
New Jersey		x	x	x
New York		x	x	x
North Carolina		x		
Oklahoma		x		
Oregon	x			x
Pennsylvania				x
Rhode Island		x		
South Carolina	x			
South Dakota	x		x	
Tennessee	x	x		
Texas		x	x	x
Utah	x	x		
Vermont		x		
Virginia	x	x		

TABLE 13(continued)

States Requiring Specific
Values and
Attitudes.

State	Morals	Citizenship	Patriotism	Humane Treatment Animals
Washington	x	x		x
West Virginia	x			
Wisconsin	x	x		
Total	14	25	14	8

. . . to so arrange and present his or her instruction as to give special emphasis to common honesty, morality, courtesy, obedience to the law, respect for the national flag, the Constitution of the United States and the Constitution of the state of Indiana, respect for parents and the home, the dignity and necessity of honest labor and other lessons of a steadying influence, which tend to promote and develop an upright and desirable citizenry.⁸⁷

West Virginia. West Virginia calls upon the schools to encourage additional citizenship skills:

. . . Such schools shall also give regular courses of instruction in the history of the United States, in civics, and in the Constitutions of the United States and of the State of West Virginia, for the purpose of teaching, fostering and perpetuating the ideals, principles, and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia.⁸⁸

Fourteen states mandate that patriotism should be taught, as Table 13 shows. Examples of statutes in Maryland and New York are typical:

Maryland. This section is enacted so that the love of freedom and democracy, shown in the devotion of all true and patriotic Americans to their flag and country, shall be instilled in the hearts and minds of the youth of America. . . Prepare a program for each public school classroom for the beginning of each school day that provide for the salute to the flag and other patriotic exercises that are approved by the United States government. . .⁸⁹

⁸⁷Indiana, Burns Statutes Annotated, Section 20.10.9.

⁸⁸West Virginia, Code Annotated, Section 18-2-9.

⁸⁹Maryland, Annotated Laws, Section 7-105.

New York. Under New York's general school requirements which lists certain subjects in elementary and secondary schools, item number 1 is, "For all students, instruction in patriotism and citizenship, as required by section 801 of the Education Law."⁹⁰

Table 13 also shows that 8 states have statutes requiring humane treatment of animals. Alabama provides a sample of these statutes, stating that the public schools should spend:

. . . at least 20 minutes each week through the entire term to teaching the pupils of his or her school, kindness, justice, and humane protection of birds and animals and the important place they occupy in the economy of nature . . .⁹¹

Voting skills traditionally come to mind when discussing values and attitudes. Nine states have statutes mandating that voting skills be taught. Excerpts from seven state mandates are presented in Table 14, showing how important voting skills are in Illinois, Indiana, Iowa, Maine, New Hampshire, Rhode Island, and Wisconsin.

Table 15 shows the number of states that mandate relatively new curricula courses including driver education, bilingual education, and cultures. The more populated states including California, Illinois, New York, and 12 other states require driver education. Alaska, Arizona, Colorado, Connecticut, Massachusetts, New Jersey, New York, Texas, and eight other states have mandated bilingual education programs to meet the needs of the large non-English-speaking population.

⁹⁰New York, McKinney's Consolidated Laws Annotated, Section 100.2

⁹¹Alabama, Code, Section 16-40-4.

TABLE 14

*States Mandating That
Voting Skills
Be Taught

State	Excerpt
Illinois	. . . Instruction shall be given in all such schools and institutions in the method of voting at elections . . . (Section 2713).
Indiana	. . . All schools shall provide within the two weeks immediately preceding the day of any general, congressional or state election for all pupils in grades six through twelve, five full recitation periods of class. . . (Section 20.10.12.1).
Iowa	. . . All students shall be required to take one unit of American history and one-half unit of the governments of Iowa and the United States including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines. . . (Section 257.25).
Maine	. . . the importance of voting and the privileges and responsibilities of citizenship shall be taught in and required for graduation. . . (Section 20-A:4601).
New Hampshire	The state board of education is hereby directed to distribute copies of said constitution and election laws...to be used...in instructing their pupils relative to the laws governing election and voting. (Section 189.23).
Rhode Island	. . . a course on instruction and demonstration in the operation of a voting machine, and of the manner of casting a valid ballot. . . (Section 16-22-10).
Wisconsin	. . . the skills to participate in political life. . . (Section 118.01).

* In addition to these seven states, Florida has a mandate requiring that "political systems" be taught and Kansas has a mandate requiring that "duties of a citizen" be taught, which implies that voting would be included.

TABLE 15

*States Mandating Relatively
New Courses in
Curriculum

State	Driver Education	Bilingual Education	Cultures
Alabama	x		
Alaska		x	
Arizona		x	
California	x		x
Colorado		x	x
Connecticut	x	x	
Idaho		x	
Illinois	x		x
Iowa	x	x	x
Maine		x	
Maryland	x		
Massachusetts		x	
Michigan		x	
Minnesota		x	x
Nevada	x		
New Hampshire		x	
New Jersey		x	x
New York	x	x	
Ohio			x
Oklahoma	x		
Oregon		x	x
Pennsylvania	x	x	
Rhode Island			
South Carolina	x		
South Dakota			x
Tennessee		x	
Texas	x		
Vermont	x		
Virginia	x		
Wisconsin	x		x
Total	15	16	10

*Majority of these statutes originated since 1965.

Teaching about other cultures and ethnic groups is mandated in 10 states as Table 15 shows. California and Ohio both have lengthy statutes that mandate the teaching of cultures:

California. . . Social sciences shall include the early history of California and a study of the role of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the roles of these groups in contemporary society.⁹²

Ohio. . . Geography, the history of the United States and of Ohio, and national, state, and local government in the United States including a balanced presentation of the relevant contributions to society of men and women of Africa, Mexican, Puerto Rican, and American Indian descent as well as other ethnic and racial groups in Ohio and the United States. . . .⁹³

The basic power to prescribe curriculum resides in the 50 state constitutions and state legislatures. While the basic power lies within the state legislature, it is apparent that the legislature cannot carry out the daily operation of the school. Therefore, the legislature in each state delegates this administrative authority to the state board of education and the local school boards.

Although the public schools are the legal creations of the states and the states have the authority to prescribe curriculum to preserve the economic, political, and cultural values of society, the inconsistent and heterogeneous legislated curriculum patterns between the

⁹²California, Education Code Annotated, Section 51213.

⁹³Ohio, Page's Revised Code Annotated, Section 3313.60.

states is a product of local and state pressure groups. State legislatures have merely placed their stamp of approval on local curricular requirements.

CHAPTER IV

LEGAL ASPECTS OF PUBLIC SCHOOL CURRICULUM

Within constitutional limitations, the state legislature has the power to control and to prescribe the subject matter of the curriculum, methods of instruction, and the instructional materials to be used in the public schools. Other powers of the state legislature include religious education in the schools, censorship of materials, and equal educational opportunities in the curriculum.

The Supreme Courts of North Carolina and Tennessee have stated the legislature's power:

The General Assembly has the power, which we think cannot be questioned, to prescribe by statute the subjects to be taught and the methods of instruction to be followed in the public schools of the state, whether such public schools be included within the uniform system required to be maintained by the Constitution, or whether they be public schools established for certain districts formed under the general school law by the state or under specific statutes.¹

. . . That the state may establish a uniform series of books to be taught in the schools, which it provides and controls, seems to be a proposition as evident as that it may provide a uniform system of schools, which we take it is not now an open question. . .

. . . The authority of the state over schools is a legislative one, and it is difficult to see how a uniform system can be maintained which will confer equal benefits upon all sections of the state, unless it is done by legislative action. If the authority to regulate and control schools is legislative, then it must have an unrestricted right

¹Posey v. Board of Education, 199 N.C. 306, 154 S.E. 393 (1930).

to prescribe methods, and the courts cannot interfere with it, unless some scheme is devised which is contrary to other provisions of the constitution . . .²

State legislatures and courts as well as federal courts and the United States Congress possess power and limitation over what is taught and how students are taught in public schools. Decisions by the United States Supreme Court and lesser federal courts along with state courts have influenced curriculum, organization and administration since 1879.³

The majority of court cases involving issues related to public school curriculum have been associated with the First and/or the Fourteenth Amendments which read as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.⁴

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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; nor deny to any person within its jurisdiction the equal protection of the laws.⁵

Until relatively recently, litigation regarding the public school curriculum has not extended beyond the state courts because the curriculum disputes were not based upon violations of the federal constitution. In 1923 the Supreme Court made its initial ruling

²Leeper v. State, 103 Tennessee 500, 53 S.W. 962 (1899).

³Joseph E. Bryson and Elizabeth W. Detty, Censorship of Public School Library Materials (Greensboro: Michie Company, 1982), p. 71.

⁴U. S. Constitution, amend. I.

⁵U. S. Constitution, amend. XIV, sec. 1.

concerning public school curriculum when it was held in a Nebraska foreign language case that a state legislative act prohibiting the teaching in any language other than English was in violation of the Fourteenth Amendment and, therefore, unconstitutional.⁶ The majority opinion written by Justice McReynolds insisted that such legislation interfered with the academic freedom rights of teachers to pursue their profession, with the freedom rights of students to obtain knowledge, and with the rights of parents to educate and control their children.⁷

An analysis of the important decisions in high state courts suggests that local boards of education have a vast amount of discretion to supplement courses required by the state-level authorities. Edmond Reutter and Robert Hamilton make this sweeping statement:

Probably in no area of school operation have the courts been more liberal in interpreting implied powers of local boards than in curricular matters. This statement applies not only to the addition of specific curricular elements, but to determination of methods of carrying out both specific and general mandates.⁸

An indispensable function of the curriculum of the public school is to educate for good citizenship. In the American democracy this education for good citizenship means education that is directed toward producing a mentality in all students that will enable them to distinguish fact from value and that will enable them to critically evaluate values

⁶Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1923).

⁷Ibid.

⁸Edmond E. Reutter and Robert R. Hamilton, The Law of Public Education (Mineola, New York: The Foundation Press, Inc., 1976), p. 128.

and rationally choose their own.⁹ Students exposed to and involved in this type of education achieve a responsible notion of freedom. The educational process must itself respect the principles of the American constitution while it teaches the principles and procedures of the American Bill of Rights. Such a curriculum allows for differences of opinions where views can differ. The curriculum must also include a fair amount of discussion concerning political theory, alternative economic systems, government, contemporary affairs, and literature.¹⁰

Decisions have been handed down by various courts within recent years regarding a number of constitutional questions related directly or indirectly to such educational issues as the determination of particular subjects, methodology in the school program, religious education, censorship of materials, and equal opportunity to curricular areas. Constitutional questions involved in these cases include the denial of due process, racial discrimination, denial of equal protection of the law, and denial of equal educational opportunities. As a result of these court decisions, certain legal principles concerning public school curriculum have evolved. These legal principles will be enumerated and discussed in this chapter.

Determination of Subject Matter

The determination of what should be included in the curriculum

⁹Arval A. Morris, The Constitution and American Education (St. Paul Minnesota: West Publishing Company, 1980), p. 194.

¹⁰Ibid.

in relation to subject matter and what should be left out has proven to be controversial through the years. As one local board of education or legislature makes provision for a particular study, another may follow with an investigation of a similar offering.¹¹ Even though a legal precedent concerning a particular issue has been established, this precedent does not prohibit an individual from pursuing a grievance in court. The courts have been called in, from time to time, to determine the legality of what may be included in the curriculum.¹²

The question of the right to determine what subjects should be included in the curriculum of the public schools came before the Illinois Supreme Court in 1881. The court indicated that under the constitution the selection of subjects to be included in the curriculum of the public schools was within the power of the legislature.¹³

When the Indiana Supreme Court was faced with the same general issue, the decisions revealed a recognition of the power of the legislature to determine the content of the curriculum of the public schools.¹⁴ In 1890 the court gave the following definition of the power of the legislature to prescribe the curriculum:

¹¹Evelyn R. Fulbright and Edward C. Bolmeier, Courts and the Curriculum (Cincinnati: W. H. Anderson Company, 1964), p. 39.

¹²Ibid.

¹³Powell v. Board of Education, 97 Ill. 375, 37 AmRep. 123 (1881).

¹⁴State ex rel. Andrews v. Webber, 108 Ind. 31, 8NE 708 (1886); Follett v. Sheldon, 144 NE 867 (Ind., 1924).

It is impossible to conceive of the existence of a uniform system of common schools without power lodged somewhere to make it uniform, and, even in the absence of express constitutional provisions, that power must necessarily reside in the legislature. If it does not reside there, then that body must have, as an incident of the principal power, the authority to prescribe the course of study and the system of instruction that shall be pursued and adopted as well as the books which shall be used. This general doctrine is well entrenched by authority.¹⁵

The Nebraska Supreme Court pointed out that the power to prescribe the curriculum rested with the legislature.¹⁶ The court also indicated that in the absence of the prescription of a course of study by the legislature the local school officials might prescribe a course under the general powers given there.¹⁷

Although the Supreme Court of the United States has never ruled directly upon the determination of the content of the curriculum by state legislatures except in regard to specific subjects, in the case of Meyer v. Nebraska, the court said:

The power of the state to compel attendance at some school and to make reasonable regulations for all schools, including a requirement that they shall give instructions in English, is not questioned. Nor has a challenge been made of the states power to prescribe a curriculum for institutions which it supports.¹⁸

¹⁵State ex. rel. Clark v. Haworth, 122 Ind. 23 NE 946 (1890).

¹⁶State ex. rel. Sheibley v. Sch. Dist. No. 1 of Dixon County, 31 Neb 522, 48 N W 393 (1891).

¹⁷Ibid.

¹⁸Meyer v. Nebraska, 262 U.S. 390, 43 S. Ct. 625 (1923).

In 1901 an Indiana court reasoned:

It cannot be doubted, we think, that the legislature has given the trustees of the public school corporations the discretionary power to direct from time to time, what branches of learning, in addition to those specified in the statute, shall be taught in the public schools of their respective corporations.¹⁹

The Supreme Court of Iowa likewise pointed out that outside of the definite and specific things which are required to be taught in public schools, considerable discretion rests with the board of directors with regard to prescribing what courses shall be taught.²⁰ A 1930 decision by the Supreme Court of North Carolina follows the thinking of the previous decisions.²¹

A Michigan Supreme Court, pointing out the power of the state commented:

The legislature has entire control over the schools of the state, subject only to the provisions of the constitution relating hereto. . . Division of territory of the state into school districts, conduct of schools, qualifications of teachers, and subjects to be taught therein, are all within control of the legislature.²²

In the process of developing the public school curriculum and recognizing certain needs and demands, many communities expanded the offerings of the schools to include certain commercial and vocational

¹⁹Myers Publishing Co. v. White River School Township, 28 IndApp 91, 62 NE 66 (1901).

²⁰Security Nat. Bank of Mason City v. Bagley, 202 Iowa 701, 210 NW 947 (1926).

²¹Posey v. Board of Education of Buncombe County, 199 NC 306, 154 SE 393 (1930).

²²Sturgis v. The County of Allegan, 343 Mich 209, 72 NW(2d) 56 (1955).

subjects.²³ The Supreme Court of Iowa held that a board of education could legally inaugurate the study of thrift as a part of the curriculum of the public schools even though as a necessary incident to the carrying out of the system the money of the pupils was required to be deposited in a bank or banks. The court said:

Coming now to the particular act in question in this case, we think it cannot be denied under the record that the instruction in thrift, as outlined and taught by the system adopted by the board of directors, in this case, comes properly and legally within the contemplation of a "course of study." The teaching of economy, self-denial, and saving is by a definite and well-defined system or plan. It is, we think, clearly within the power of the board of directors of a school corporation to determine whether or not such a course of study shall be prescribed for the public school of the corporation or whether it shall be maintained or not. The General Assembly designated by legislative enactment that certain specified subjects shall be taught in the public schools, and has left the matter of determining and prescribing the courses of study as to all other matters within the power and discretion of the board of directors. . . .²⁴

The power of the legislature to provide a mandatory system of vocational education and to regulate the administration of the program was challenged in a Minnesota case. The opinion of the court stated that "It is the judgment of the legislature that this state should now require public education in something more than the common branches; that it should provide for the public education of boys in that which pertains to successful agriculture...."²⁵

²³Fulbright and Bolmeier, p. 44.

²⁴Security Nat. Bank of Mason City v. Bagley, 202 Iowa 701, 210 NW 947 (1926).

²⁵Associated Schools of Independent School Dist. No. 63 v. School Dist. No. 83, 122 Minn 254, 142 NW 325 (1913).

To show how different states handle similar questions, a Pennsylvania court ruled that a district must provide for the general education of the children, as well as vocational education. A district which provided only vocational courses did not have a high school within the statutes of the state.²⁶

The view of the courts concerning vocational education has traditionally supported the power of the legislature or school board to implement programs, to legalize the spending of funds for provision of teachers for those programs, and to give approval for the acquisition of land and buildings to be used in vocational education. The stance of the courts regarding vocational arts may best be summarized by the following decision:

The school trustees of a high school have authority to classify and grade the scholars in the district and cause them to be taught in such departments as they may deem excellent; they may also prescribe the courses of study and textbooks for the use of the school and such reasonable rules and regulations as they may think needed. They may also require prompt attendance, respectful deportment, and diligence in study.²⁷

One of the first cases in the area of foreign language was the landmark 1874 Kalamazoo case in which the Supreme Court of Michigan held that a local board, in the absence of express legislative authority, did have the power to maintain a high school.²⁸

²⁶School District of Borough of Falls Creek v. School Dist. of Washington Township, 114 PaSuper, 174 Atl 634 (1934).

²⁷State ex rel. Kelly v. Ferguson, 95 Neb 63, 144 NW 1039 (1914).

²⁸Stuart v. School Dist. No. 1 of Kalamazoo, 30 Mich. 69 (1874).

The court was asked to rule on the legality of levying and collecting taxes to support a high school in which languages other than English were taught. The court contended that languages other than English might properly be taught in the common schools.²⁹

In 1893 a case in Kansas questioned whether instruction in Latin and German languages violated a statute which provided that "instruction given in the several branches taught shall be in the English language."³⁰ The court recognized the right of the school board to prescribe foreign languages as a part of the program of studies provided only that the medium of instruction must in all cases be the English language and not the foreign language that is the course of instruction.³¹

The United States Supreme Court held a Nebraska statutory prohibition against the teaching of any subject in any language other than English or the teaching of languages other than English below the eighth grade unconstitutional. The court maintained that the legislative act which held no "reasonable relation to any end within the competency of the state, and deprived teachers and parents of liberty, without due process of law," was in violation of the Fourteenth Amendment.³² The court said:

²⁹Ibid.

³⁰Board of Education of Topeka v. Welch, 51 Kan 792, 33 Pac 654 (1893).

³¹Ibid.

³²Meyer v. Nebraska, 262 US 390, 43 S Ct 625 (1923).

No emergency has arisen which renders knowledge by a child of some language other than English so clearly harmful as to justify its inhibition with the subsequent infringement of rights long freely enjoyed. We are constrained to conclude that the statute as applied is arbitrary and without reasonable relation to any end within the competency of the State.³³

This landmark decision in the foreign language area not only established a precedent to be followed by legislatures and school boards, but in addition placed the United States Supreme Court justices in the position of educational philosophers. The court was demanding that appropriate educational opportunities be afforded the public, regardless of environmental, political, or social circumstances. Aside from being the most important foreign language case, it moved education ahead by years.³⁴

The inclusion of health and physical education programs in the school curriculum has led to protests being raised by some citizens. In 1921 objection was brought by certain parents on religious grounds to the dancing of the "waltz," "polka," and "two-step" as a part of a physical education program. When the parents requested that the children be excused from the activities, the board of education expelled the children for refusing to participate.³⁵ The court held that school authorities had no right to expel the children for their refusal, "in obedience to their parents' command," to take part in

³³Ibid.

³⁴Ibid.

³⁵Hardwick v. Board of School Trustees of Fruitridge School Dist., 54 CalApp 696, 205 Pac 49 (1921).

dancing activities. The court upheld the right of the school to include dancing in the curriculum of the school under the statute authorizing manual and physical training.

In a Pennsylvania case questioning the purchasing of athletic supplies, the supreme court indicated the place of physical education in the curriculum. Justice Stern, speaking for the court, stated:

Physical education is as much a part of the school curriculum as are subjects of intellectual study, and athletic supplies, therefore, are as necessary for school use as maps, globes, and similar objects. It is not the spirit of our public school system that only children with financial means to purchase their own supplies should have the opportunity of participating in school games and athletic sports.³⁶

Another court case held that a student, on the basis of religious principles, was not required to participate in exercises she considered "immodest and sinful," nor was she required to wear the prescribed outfit. The court ruled that the girl was obligated to attend the course in physical education, and maintained that the requirement did not violate her constitutional rights.³⁷

Language arts programs have been challenged through the years. The earliest language arts case was decided in Vermont in 1859. A disagreement centered around writing a composition which was a part of the grammar course. The student was expelled for refusing to participate.

³⁶Galloway v. School Dist. of Borough of Prospect Park, 331 Pa 48, 200 Atl 99 (1938).

³⁷Mitchell v. McCall, 143 S(2d) 629 (Ala, 1962).

The court upheld the expulsion and said:

It is not necessary to inquire into the propriety of extending the course of instruction in the common schools, maintained at public expense beyond this, so... it seems very obvious that English composition may fairly be regarded as an allowable mode of teaching many of these branches.³⁸

Several years later a refusal to prepare a composition and participate in a debating exercise caused difficulty in Georgia. The father of a thirteen-year-old girl objected to the topic "Should Trial by Jury be Abolished?" on the grounds that the exercise was too difficult and that debate was not a part of the prescribed course of the school. The teacher expelled the girl from school and the court advanced this decision:

The authorities of a public school have full power to make it a part of the school course to write compositions, and enter into debates, and to prescribe that all pupils shall participate therein. Whether a particular subject given by such authorities for composition or debate is suited to the age and advancement of the pupil is a question for determination by such authorities, and not by the courts.³⁹

Litigation since 1974 in the area of language arts has revolved around the issues of bilingual education and the teaching of standard English to black students.

In a 1974 New Mexico case, the Tenth Circuit Court of Appeals ruled that Spanish-surnamed students should receive English instruction

³⁸Guernsey v. Pitkin, 32 Vt 224, 76 AmDec 171 (1859).

³⁹Samuel Benedict Memorial School v. Bradford, 111 Ga 801, 36 SE 920 (1900).

to raise achievement scores and to lower the dropout rate. A bilingual program was set up through the court order.⁴⁰

A California case heard in 1974 ended up in the United States Supreme Court.⁴¹ The opinion stated that all Chinese students in the San Francisco schools must receive instruction in English. The court pointed out that a student who does not understand English is barred from receiving a meaningful education. The decision was based upon a Department of Health, Education and Welfare guideline concerning elimination of language barriers, rather than the Fourteenth Amendment.⁴²

A controversial issue, which continues to be of widespread interest, involves the inclusion of sex education in the curriculum. Parents, school boards, and legislatures are in disagreement on the issue although the courts are consistent in ruling that school boards possess considerable discretionary authority in maintaining that sex education be incorporated into the curriculum.⁴³

The court ruled in a 1969 Kansas case that a "sex education program conducted by the Topeka Board of Education was a reasonable exercise of its constitutional and statutory authority."⁴⁴

⁴⁰Serna v. Portales Municipal Schools, 499 F. 3d 1147 (10 Cir, 1974).

⁴¹Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed. 2d 1 (1974).

⁴²Ibid.

⁴³Edward Bolmeier, The School in the Legal Structure (Cincinnati: W.H. Anderson Co., 1974), p. 285.

⁴⁴Clemmer v. U.S.D. 501, No. 112,064, District Court of Shawnee County (Kansas, 1969).

The Maryland State Board of Education adopted a bylaw concerning sex education and defended the action in court. The bylaw read, in part:

It is the responsibility of the local school system to provide a comprehensive program of family life and sex education in every elementary and secondary school for all students as an integral part of the curriculum including a planned and sequential program of health education.⁴⁵

The board had adopted the bylaw after studying the problem of teenage pregnancies. Parents contended that the bylaw violated the First Amendment and the Fourteenth Amendment. In the words of the court, "the constitutional challenge lacks merit. . . ."46

Parents of elementary school children challenged the constitutionality of showing a film as part of a newly adopted curriculum for family life and sex education. The question to be answered was "whether parents are free to educate their offspring in the intimacies of sexual matters according to their own moral and religious beliefs without due interference by the State."⁴⁷ The Hawaii Circuit Court could find no reason to enjoin schools from showing the film because parents had had the benefit of withdrawing children from the film viewing.⁴⁸

The issue of teaching the theory of evolution in the public schools received much publicity when, in 1927, a Tennessee law was tested in the famous Scopes case. Scopes was convicted for violating the Tennessee

⁴⁵Cornwall v. State Board of Education (Ind), 428 F(2d) 471,472 (1970).

⁴⁶Ibid.

⁴⁷Madeiras v. Kiyosaki (Hawaii), 478 P(2d) 314, 315 (1970).

⁴⁸Ibid.

law for teaching "a certain theory that denied the story of the divine creation of man, as taught in the Bible, and did teach instead thereof that man descended from a lower order of animals."⁴⁹

The Supreme Court of Tennessee ruled that public school teachers did not have the right to oppose anti-evolution laws while in the classroom. In 1968, which was half a century later, the Supreme Court of the United States reversed the judgment of the Supreme Court of Arkansas, and held that the anti-evolution statute was unconstitutional.⁵⁰ Judge Fortas explained:

The State's undoubted right to prescribe the curriculum for its public schools does not carry with it the right to prohibit, on pain of criminal penalty, the teaching of a scientific theory or doctrine where the prohibition is based upon reasons that violate the First Amendment. It is much too late to argue that the State may impose upon the teachers in its school any conditions that it chooses, however restrictive they may be of constitutional guarantees...⁵¹

Edward Bolmeier makes this prediction concerning litigation to determine subject matter:

In reviewing the court cases dealing with such areas of the curriculum as language arts, music, mathematics, and science it is significant to note that virtually all of them were adjudicated several decades ago--and in support of the school boards' discretionary actions. It could be concluded from this that by now legal principles have been so firmly established in such matters as to preclude further litigation.⁵²

⁴⁹Scopes v. Tennessee, 154 Tenn 105 289 SW 363 (1917).

⁵⁰Epperson v. Arkansas, 393 US 97, 21 LEd(2d) 228, 89 Sct 266, 272 (1968).

⁵¹Ibid.

⁵²Bolmeier, p. 284.

Methods of Instruction

State legislatures seldom prescribe the teaching methods that must be used in classrooms, leaving those matters to school personnel. They sometimes speak to the subject generally by requiring that teachers carry out the prescribed teaching methods and courses of study. An example is found in the Washington state statutes:

Certificated employees shall faithfully enforce in the common schools the course of study and regulations prescribed, whether regulations of the district, the superintendent of public instruction, or the state board of education, and shall furnish promptly all information relating to the common schools which may be requested by the county or intermediate district superintendent.

Any certificated employee who willfully refuses or neglects to enforce the course of study or the rules and regulations as above in this section required, shall not be allowed by the directors any warrant for salary due until said person shall have complied with said requirements.⁵³

It is not uncommon for legislatures to direct teachers to impress certain values onto the minds of their students. Washington state again provides a unique example:

It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism; to teach them to avoid idleness, profanity and falsehood; to instruct them in the principles of free government, and to train them up to the true comprehension of the rights, duty and dignity of American citizenship.⁵⁴

⁵³Washington, Revised Code, Section 28A.-67.060.

⁵⁴Washington, Revised Code, Section 28A.-67.110.

No person, whose certificate or permit authorizing him to teach in the common schools of this state has been revoked due to his failure to endeavor to impress on the minds of his pupils the principles of patriotism, or to train them up to the true comprehension of the rights, duty and dignity of American citizenship, shall be permitted to teach in any common school in this state.⁵⁵

School systems, through the years, have been concerned with the evaluation of teaching methods used in the classroom. With new techniques constantly being devised, the educator faces the problem of making discriminating choices. Some litigation has developed as a result of problems centering around methods of instruction.

In a Vermont case of more than a century ago, the court sustained the action of a school board in expelling a pupil who refused to write an English composition. This 1859 case, Guernsey v. Pitkin, mentioned earlier in this chapter, recognized that English composition was an essential mode of teaching many aspects of the curriculum.⁵⁶

The highest court in Massachusetts has sustained the right of school authorities to prescribe the teaching methods to be used in a classroom teaching case involving a girl whose stepfather refused to allow her to attend a bookkeeping class. The parent complained because the teacher had selected a rival pupil to aid in the correction of homework papers and the student had marked a problem wrong on his child's paper.⁵⁷ After the girl worked on the problem for an additional

⁵⁵Washington, Revised Code, Section 28A.67.030.

⁵⁶Guernsey v. Pitkin, 32 Vt 224, 76 AmDec 1/1 (1859).

⁵⁷Wulff v. Inhabitants of Wakefield, 221 Mass 427, 109 NE 358 (1915).

week and a half, she turned in the same answer and the teacher marked it "correct." Because the girl had become upset over the situation, the stepfather protested to the board of education about the system of correcting papers. Upon refusal of the school board to require changes to be made in the methods used in the classroom, the pupil stopped attending class. The court made the following statement.

The real and vital question is not whether the plaintiff was guilty of misconduct in refusing to attend her class, but whether a parent has the right to say a certain method of teaching any given course of study shall be pursued. The question answers itself. Were it otherwise, should several parents hold diverse opinions all must yield to one or confusion and failure inevitably follow. The determination of the procedure and the management and direction of pupils and studies in this Commonwealth rests in the wise discretion and sound judgment of teachers and school committee whose action in these respects is not subject to the supervision of this court. . .

The case at bar is one purely of administrative detail and its exercise violates no legal right of pupil or parent. The plaintiff was without right in requiring that the principal personally should attend to the supervision of her individual work, perhaps to the neglect of more important duties.⁵⁸

An Arizona court upheld school authorities in matters pertaining to the procedures used in a physical education classroom. The court said: "If physical education be one of the special subjects permitted by law, it is a matter for the reasonable discretion of our school authorities as to how such subject should be taught."⁵⁹

⁵⁸ Ibid.

⁵⁹ Alexander v. Phillips, 31 Ariz 503, 254 Pac 1056 (1927).

A disagreement over a pedagogical question between a county superintendent and a member of the board of education in a West Virginia case was debated in 1943. In discussing the methods to be followed in the public schools, the court said:

The law does not contemplate that the members of a board of education shall supervise the professional work of teachers, principals, and superintendents. They are not teachers, and ordinarily, not qualified to be such. Generally they do not possess qualifications to pass upon methods of instruction and discipline. The law clearly contemplated that professionally trained teachers, principals, and superintendents shall have exclusive control of these matters.⁶⁰

In 1962, a case resulting from a question concerning procedures to be used in an industrial arts class came before a Louisiana court. The principal of the particular school asked the industrial arts teacher to build a sidewalk as a teaching demonstration. The teacher refused, stating his reason that it was construction work. He was dismissed for his action. The court stated:

It is not the function of a court to sit in judgment on the propriety of school curriculum, methods of teaching and demonstrations which school officials have determined necessary and proper. In the case at bar, there is no evidence that the order given plaintiff was unreasonable, arbitrary or capricious. It seems clear to us that there is a reasonable relationship between the instruction and demonstration which plaintiff was instructed to give and the Industrial Arts curriculum which had been initiated.⁶¹

⁶⁰State ex rel. Rogers v. Board of Education of Lewis County, 125 WVa 579, 25 SE(2d) 537 (1943).

⁶¹State v. Avoyelles Parish School Board, 147 S(2d) 729 (La, 1962).

The classification of pupils has occasionally caused controversy. In an Ohio case school authorities were supported in determining the grade placement of an elementary school student. Parents of a fifth grade student, who had been promoted to the sixth grade, sought by mandamus proceedings to enter the student in the seventh grade. School policy required that the board of education take action, based upon an evaluation of the student by the superintendent and the child's teacher. In upholding the decision of the school board, the court said:

People, including educators, differ respecting the comparative harm likely to come to a child by untoward cramming and crowding on one hand, or on the other hand, being kept back in his studies, with the probable resulting opportunity to acquire a habit of idling and wasting time, and will probably continue to differ to the end of time. As yet no better solution of the problem seems to have been made than to leave its determination to the parents, who presumably have more than any others the good of the child at heart. But though this conclusion be accepted it would not justify the claim on the part of the parent to insist upon his way in the face of contrary opinion and decision on the part of the school authorities. ⁶²

Grade placement was the issue in the Isquith case.⁶³ Children who were five years old were permitted to attend public school kindergarten according to New York statutes. The Isquith family brought proceedings to require the admission of a five-year-old boy to the first grade. The court ruled that a parent had no legal right to stipulate that a child be admitted to a specific grade in a public school. The court maintained: "After a child is admitted to the public school, the board

⁶²Board of Education of Sycamore ex rel. Wickham v. State, 80 Ohio St 133, 88 NE 412 (1909).

⁶³Isquith v. Levitt, 285 AppDiv 833, 137 NYS (2d) 497 (1955).

of education has the power to provide rules and regulations for promotion from grade to grade, based not on age, but on training, knowledge, and ability."

The Supreme Court of Washington also upheld a decision on the classification of a pupil by the board of education. A parent attempted to bypass sending his daughter to high school by trying to enroll her in another elementary school. The court maintained that the board of education had classified the pupil by granting her a certificate and therefore she was not eligible to attend another elementary public school.⁶⁴ In other cases, the courts have ruled that a board of education has the right to grade and classify pupils and require them to be taught in a manner proper for the best education of the child.⁶⁵ A Kansas court ruling pointed out that school officials could use a special examination and the student's scholastic record as the basis for a decision on classification.⁶⁶

From time to time a local board wishes to drop from the curriculum a course which is not mandated by the state but which has been offered over a long period of time. The courts have found that the implied powers of local boards permit deleting courses. The courts recognize that it is an administrative function of school boards and administrative authorities to meet changing educational conditions through the creation of new courses, reassignment of teachers, and rearrangement of curriculum.⁶⁷

⁶⁴Westland Pub. Co. v. Royal, 36 Wash 399, 78 Pac 1096 (1904).

⁶⁵School Board Dist. No. 18 v. Thompson, 24 Okla 1, 103 Pac 578 (1909); State v. Board of Education of West Union, 81 WVa 353, 94 SE 500 (1917).

⁶⁶Creyhon v. Board of Education, 99 Kan 824, 163 Pac 145 (1917).

⁶⁷Jones v. Holes, 334 Pa. 538, 6 A.2d 102 (1939).

Edmund Reutter and Robert Hamilton have this to say concerning methods of instruction as it relates to the legal aspects of curriculum:

Although almost all states have some statutes impinging on methodology, most of the prescriptions are general and suggestive, rather than specific and exclusive. Thus, in general, the determination of methods is essentially a local, rather than a state, decision. Generally the courts accept the authority of the school boards and the expertise of the school personnel as to methodology.⁶⁸

The textbook used in the classroom helps determine teaching procedures as well as the content of instruction. Other instructional materials, such as pictures, specimens, charts, maps, models, and various other audio-visual materials contribute to the curriculum in subject matter and method.⁶⁹

Questions concerning what textbooks may or may not be used in the public schools have caused litigation in the courts of the various states. In 1908, the Missouri Supreme Court held that "in case neither the state nor the local school board had made an adoption of textbooks, the teacher was the most logical agency for such adoption because of his familiarity with the relative merits of textbooks."⁷⁰ Parents had requested that the teacher teach two children using Milne's Elementary Arithmetic and Standard Arithmetic. The teacher refused but was willing to teach the children from the textbook she was using to teach the other children. The court delivered this decision:

⁶⁸Reutter and Hamilton, p. 131.

⁶⁹Fulbright and Bolmeier, p. 135.

⁷⁰State ex rel. Moore v. Millsap, 130 MoApp 683, 108 SW 1133 (1908).

We are satisfied that the parent is not vested with the discretion of selecting the books to be used in the instruction of his child. If such was the case, it might result in destroying their efficiency. The variety of books which might be brought into requisition would impose a burden on the teacher which he could not overcome; and we can see no good reason why a majority of the patrons of the school should have the authority to determine what books all the children in the school should use. There is no law to that effect. Classification of the pupils is one of the prime factors in the government of every school where the numbers are so great that the teacher does not have the time and opportunity to give each separate instructions. And, as there is no law to bind the minority as to what might be the opinion of the majority with respect to what books should be used for instruction, there would be no uniformity in that respect and consequently classification of the pupils would be impossible.⁷¹

There is no question as to legal right of the state to prescribe textbooks. A case decided by the Supreme Court of Tennessee in 1899 made this judgment on the power of the legislature to provide for a uniform series of textbooks:

The State may establish a uniform series of books to be taught in the schools which it provides and controls seems to be a proposition as evident as that it may provide a uniform system of schools which we take it is not now an open question...⁷²

When a question arose in Michigan concerning the uniformity of texts, the supreme court indicated that the requirement meant that textbooks had to be of the same series in one grade only. The court stated:

⁷¹Ibid.

⁷²Leeper v. State of Tennessee, 103 Tenn. 500, 53 S.W. 962 (1899).

⁷³Attorney General ex rel. Marrs v. Board of Education of Detroit, 133 Mich 681, 95 NW 746 (1903).

The term "uniformity" does not mean that all the textbooks of one author in grammar, arithmetic, history, physiology, etc. for the different grades of scholars must be used. Boards of education are at liberty, under this law, to adopt the book of one author for use in all the primary departments, and the book of another author on the same subject in all the grammar or higher departments. All the law requires is that they be uniform in the same grade.⁷⁴

Citizens of the community cannot through court action require a school board to offer particular instruction or use the book in a particular way. The school board has discretion only if no state mandate to the contrary exists and if no constitutional deprivation can be shown.⁷⁵

Citizens cannot require a board to remove a book from use in the curriculum unless it can be proven that the book is sectarian, "subversive," or "maliciously written." A case concerning this very matter was heard by a New York court when objections were brought up charging that in certain books, some characters belonging to a specific race or religion were portrayed in a derogatory and offensive manner. Citizens requested that these books be removed from the schools. The court said:

Educational institutions are concerned with the development of free inquiry and learning. The administrative officers must be free to guide teachers and pupils toward that goal. Their discretion must not be interfered with in the absence of proof of actual malevolent intent.⁷⁶

⁷⁴Ibid

⁷⁵Wright v. Houston Independent School Dist., 486 F.2d 137 (5 Cir. 1973); Mercer v. Michigan State Bd. of Educ., 379 F. Supp. 580 (E.D. Mich. 1974), cert. den. 419 U.S. 1081, 95 S.Ct. 763, 42 L.Ed.2d 678 (1974).

⁷⁶Rosenburg v. Board of Education of New York City, 196 Misc 542, 92 NYS(2d) 344 (1949).

A similar decision was reached in 1970, Parducci v. Rutland, when a reading assignment was declared appropriate by the courts and the assignment was determined not to be disruptive to the educational process of the school.⁷⁷

The courts have recognized the power of the state over education unless the state constitution imposes certain limitations.

Religious Education in the Curriculum

Public school practices concerning the use of the Bible, the recitation of prayers, and singing of hymns have caused controversies to be carried to courts for adjudication. Since there are several hundred different religious sects in America, it is understandable that different interpretations as to what constitutes religious freedom in the public schools have resulted in litigation in this realm.⁷⁸

A program which released school children during the school day to receive religious instruction was challenged before the Supreme Court of the United States in McCullum v. Board of Education in 1948.⁷⁹ The classes were offered on the school campus and were taught in three separate religious groups by Protestant teachers, Catholic priests, and a Jewish rabbi. The Supreme Court of the United States by an eight to one vote ruled that the program was unconstitutional. They commented, "This is not separation of Church and State."

⁷⁷Parducci v. Rutland, 316 F. Supp. 352 (M.C. Ala. 1970).

⁷⁸Bolmeier, p. 291.

⁷⁹McCullum v. Board of Education (Ill), 333 US 203, 92 L.Ed. 648, 68 S. Ct. 461 (1948).

In 1950 the New Jersey Supreme Court held that a statute requiring that at least five verses from the Old Testament of the Bible be read at school each day did not violate the First or Fourteenth Amendment.⁸⁰ By 1952 when the case reached the United States Supreme Court, it was moot on the grounds that the student had already graduated from high school.⁸¹

Four years after the McCollum case was decided, a New York statute provided for releasing school students from public school attendance to attend religious classes off of the school premises. The New York City plan of "released time" was sustained. The majority reasoned that the state can "accommodate" the religious wishes of parents to the extent of releasing pupils to attend religious programs off campus at the parents' request. The main difference between the McCollum case and the Zorach case was that school buildings were not used for the religious instruction in the Zorach case.⁸²

In the 1962 Murray case, the following Board of Education of Baltimore rule was challenged:

Each school, either collectively or in classes, shall be opened by the reading without comment, of a chapter of the Holy Bible and/or the use of the Lord's Prayer. The Douay (Catholic) version may be used by those who prefer it . . . Any child shall be excused from participating in the opening exercises upon the written request of his parent or guardian.⁸³

⁸⁰Doremus v. Board of Education, 5NJ 435, 75 A(2d) 880 (1950).

⁸¹Doremus v. Board of Education, 342 US 429, 72 S. Ct. 394, 96 L. Ed 475 (1952).

⁸²Zorach v. Clauson, 343 US 306, 72 S. Ct. 679, 96 L. Ed. 954 (1952).

⁸³Murray v. Curlett, 228 Md 239, 179 A(2d) 698 (1962).

Again the court ruled that it was unconstitutional for a state law to promote the reading of verses from the Bible and the recitation of prayer on school grounds under the supervision of school personnel during school hours, even when attendance was not compulsory.

The New York State Board of Regents recommended that the following prayer be said in the public school classrooms each morning:

Almighty God, we acknowledge our dependence upon
Thee, and we beg Thy blessings upon us, our parents,
our teachers, and our country.⁸⁴

When the Board of Regents adopted the morning prayer procedure, the parents of ten pupils challenged the Board's action referring to the practice as being "obnoxious to their religions or religious beliefs."⁸⁵ The highest court in New York state held that since the prayer was non-denominational it did not violate the "no establishment" clause. Even though the prayer was non-denominational and participation of children in the prayer was optional and voluntary, the Supreme Court of the United States reversed the decision of the New York court. Justice Black, speaking for the majority opinion, said:

The petitioners contend among other things that the state laws requiring or permitting use of the Regents' prayer must be struck down as a violation of the Establishment Clause because that prayer was composed by governmental officials as part of a governmental program to further religious beliefs. For this reason, petitioners argue, the State's use of the Regents' prayer

⁸⁴Engel v. Vitale, 370 US 421, 82 S. Ct. 1261, 8 L. Ed. (2d) 601 (1962).

⁸⁵Ibid.

in its public school system breaches the constitutional wall of separation between church and state. We agree with that contention since we think that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government.⁸⁶

In a concurring opinion, Justice Douglas suggested that "once government finances a religious exercise it inserts a divisive influence into our communities." He emphasized:

The First Amendment leaves the Government in a position not of hostility to religion but of neutrality. The philosophy is that the atheist or agnostic--the non-believer-- is entitled to go his own way. The philosophy is that if a government interferes in matters spiritual, it will be a divisive force. The First Amendment teaches that a government neutral in the field of religion better serves all religious interests.⁸⁷

In the Schempp case, the Supreme Court of the United States handed down the decision that a Pennsylvania law requiring the reading of at least ten verses from the Holy Bible in school each day was unconstitutional. Reading the Bible as a religious exercise invalidated statutes in many states which theretofore had prescribed or expressly permitted such practices.⁸⁸

Two prayers were questioned in federal courts of appeals. A school principal had prohibited the recitation of prayers before a mid-morning snack. The children had recited this verse:

⁸⁶Ibid.

⁸⁷Ibid.

⁸⁸Schempp v. School Dist., Abington Township, Pennsylvania v. Schempp, 374 US 203, 83 S. Ct. 1560, 10 L. Ed. (2d) 844 (1963).

Thank you for the world so sweet.
 Thank you for the food we eat.
 Thank you for the birds that sing.
 Thank you, God, for everything.

The principal's wishes were upheld.⁸⁹ In another circuit the question came up concerning essentially the same prayer, but it omitted the word "God." The Court of Appeals negated that prayer also.⁹⁰ At the time of this writing, prayer in the public schools has been ruled unconstitutional unless the prayer is silent and private.

Censorship of Materials

Censorship of curriculum materials, textbooks, and library books has been a recurring problem in the public schools in the United States for almost 200 years.⁹¹ The diverse population, of which the nation is so justly proud, demands certain things from the public schools. Included in these demands is the fervent belief that schools should indoctrinate or transmit community mores and established thought.⁹²

When the country was a "melting pot," transmitting community mores was accomplished fairly easily, but as the country becomes more pluralistic, educators are in a quandry concerning what values to discuss and what the school's role should be in discussing them. Attempts to control

⁸⁹Stein v. Oshinsky, 348 F.2d 999(2Cir. 1965), cert. den. 382 U.X. 957, 86 S. Ct. 435, 15 L.Ed.2d 361 (1965).

⁹⁰DeSpain v. DeKalb County Community School Dist., 384 F.2d 836 (7 Cir. 1967), cert. den. 390 U.S. 906, 88 S. Ct. 815, 19 L.Ed.2d 873(1968).

⁹¹Larry L. Kraus, "Censorship: What Island Trees v. Pico Means to Schools," The Clearing House, 57 (1984), p. 343.

⁹²Bryson and Detty, p. 73.

the content of curricula and of books in school libraries are increasing rapidly, bringing into focus the question of what rights students have to receive information and what rights a community has in determining what information is taught and what information is available in its schools.⁹³

From the American Heritage Dictionary to Catcher In The Rye to the seemingly innocuous The Hobbit and A Separate Peace, books of all kinds are being banned from school libraries and removed from classroom curricula in increasing numbers.⁹⁴ From 1966 to 1975 the Office of Intellectual Freedom (OIF) of the American Library Association (ALA) cited over 910 cases in the United States Schools, 386 of which occurred in high schools. A more recent survey by the OIF reported 300 cases in just one year from 1978 to 1979. In 1980, the ALA reported that censorship pressures of all kinds increased from three to five episodes a week to three to five episodes a day.⁹⁵

Anyone and any group can complain about school materials, a trend which has been consistent since the 1960s. School administrators and school boards are perhaps the most conspicuous censors, but state educational agencies, textbook publishers, and the courts also censor.

⁹³Kraus, p. 343.

⁹⁴Angela K. Sneller, "Censorship in Public Schools." Freedom of Information Center August 1981, pp. 1-3.

⁹⁵"Growing War Pro and Anti-Censorship Forces Use Schools As Battlegrounds," Phi Delta Kappan 61 (June 1980) p. 722. Frank Triplett, "The Growing Battle of the Books," Time 117 (January 19, 1981) p. 86.

The United States Congress potentially can censor through funding and legislation, and state legislators already have. For example, the Oregon legislature passed a textbook guidelines law in 1975 stating: "No textbook shall be used which speaks slightingly of the founders of the republic or of those who preserved the Union or which undervalues their work."⁹⁶

Most attacks on textbooks are based on politics, racism, religion, and issues of morality, obscenity, sex, nudity, or language. Legally, the struggle is between the right of the individual for free expression under the First Amendment, which has been taken to mean the right of the states to compel and oversee the education of minors and decide what is best for them.⁹⁷

Rapid societal change has brought with it expanded rights to minors. In the 1969 Tinker case the Supreme Court made its assertion concerning First Amendment rights of school children.⁹⁸ Although the case does not deal specifically with censorship of books, it sets a precedent for students' rights that has been subsequently used in defenses against removal of books, in establishing curriculum and in censorship of school newspapers. The court maintained:

⁹⁶Dorothy C. Massie, "Censorship in the Schools: Something Old and Something New." Today's Education, 69 (November, December, 1980), p.30GS.

⁹⁷Lawrence B. Fuller. "Student's Rights of Expression. The Decade Since Tinker." English Journal, 68 (December 1979) p. 11.

⁹⁸Tinker v. Des Moines Indep. Community School Dist., U.S. 503 89 S. Ct. 733, 21 L.Ed. 2d 731 (1969).

It can hardly be argued that neither students nor teachers shed their constitutional rights to freedom of speech or expression at the school house gates.⁹⁹

As early as 1879, a federal court in New York addressed the question of students' right to receive information. The federal courts have continued to address this issue, and more recently the courts have insisted that school board conservatism encroaches on students' rights.¹⁰⁰ The major case that has allowed broad legislation to be passed is the Supreme Court's ruling in Miller v. California in 1973.¹⁰¹ The court upheld the lower court's definition of obscene materials according to "contemporary community standards." The guidelines for determining obscenity outlined in Miller applied to the average person of the community who might find that work, "taken as a whole, appeals to the prurient interest. . . (or) lacks serious literary, artistic, political or scientific value." An expert was no longer necessary when considering the work's social value. The individual jurors could make the determination based on prevailing standards.¹⁰²

In 1975, nine states passed obscenity laws, and 38 out of 44 state legislatures meeting that year debated passing laws based on the ruling. Justice William Douglas' warning in his minority opinion to Miller was hauntingly remembered:

⁹⁹Ibid.

¹⁰⁰United States v. Bennett, 16 Blatch 338, Fed. Case 14, 571 (1879).

¹⁰¹Miller v. California, 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed. 2d 419 (1973).

¹⁰²Ibid.

What we do today is rather ominous as respects librarians. The net now designed by the court is so finely meshed that taken literally it could result in raids on libraries. . . . If what is offensive to the most influential person or group in a community can be purged from a library, the library system would be destroyed.¹⁰³

Most of the cases argued have been in favor of students' rights or teachers' academic freedom. They further refined the tenets set forth in Tinker.¹⁰⁴ In Keefe v. Geanakos,¹⁰⁵ the court reinstated a teacher who was fired for assigning a book that contained an obscene word and for the teacher's not agreeing to stop saying the word in class. The plaintiff argued that he had lost his academic freedom through the dismissal. The court ruled that the reading had more educational value than offensiveness to the students. The court also said that parents' sensibilities could not be the full measure of a proper education and upheld the teacher's use of the material for valid educational purposes.

In Parducci v. Rutland,¹⁰⁶ a 1970 case, the court again upheld a teacher's right to use a story termed "disruptive" by the local school board. The story in question was Kurt Vonnegut's Welcome to the Monkey House, which the teacher taught even after directed not to by the school board. The court found no obscenity in the story and ruled that the students' rights had been violated on three counts: (1) The book was no

¹⁰³Ibid.

¹⁰⁴Tinker v. Des Moines Indep. Community School Dist., 393 U.S. 503 89 S. Ct. 733, 21 L. Ed. 2d 731 (1969).

¹⁰⁵Keefe v. Geanakos, 305 F. Supp. 1091 (D. Mass.), 418 F. 2d 359 (1st Cir. 1969).

¹⁰⁶Parducci v. Rutland, 316 F. Supp. 352(M.C. Ala. 1970).

longer available to the students; (2) Their right to know was impaired; and (3) There was no "compelling or substantial" state interest that justified the impairment.¹⁰⁷

In 1974 in William v. Board of Education of the County of Kanawha, students' rights were again upheld. Parents claimed that certain school textbooks selected by the school board contained material "offensive to Christian morals. . . defames the Nation . . . encourages the use of vile and abusive language, and encourages the violation of the Ten Commandments and civil law." The court ruled that even though some of the material was offensive to the parents' beliefs, the use of the material did not violate their constitutional rights.¹⁰⁸

The case of Minarcini v. Strongsville City School District steadies academic freedom and establishes a precedent for the protection of school libraries.¹⁰⁹ Two books were removed from the school library by the school board in 1976. The plaintiffs filed a class action suit claiming the school board had violated the First and Fourteenth Amendment rights by not approving the faculty's recommendation to adopt the books as texts, by removing the books from the library, and by prohibiting discussion of the books in the classroom. The judge dismissed the plaintiff's complaints, arguing that some authorized body had to decide, and the board had the absolute right to make that decision. The court also stated the board had

¹⁰⁷Ibid.

¹⁰⁸William v. Board of Education of Kanawha.

¹⁰⁹Minarchini v. Strongsville City School Dist., 384 F. Supp. 698 (N.C. Ohio 1974), aff'd in part, rev'd in part, 541 F.2d 577 (6th Cir. 1976).

the duty to determine shelving according to financial and architectural possibilities, and the books could be removed on that basis.

The case was appealed to the Sixth Circuit Court, which overturned the original ruling. The court felt that the books had been removed because the board members found them objectionable, and found that they had the power to censor. The court strengthened the case for academic freedom and the sanctity of school libraries by explaining:

A library is a storehouse of knowledge. When created for a public school it is an important privilege created by the state for the benefit of students in the school. That privilege is not subject to being withdrawn by succeeding school boards whose members might desire to "winnow" the library for books the contents of which occasioned their displeasure or disapproval.¹¹⁰

The court ruled that having created a library, the board could not place conditions on the use of it related to the social or political views of the school board. The students' rights to information was also reaffirmed.

Island Trees Union Free School District No. 26 et al. v. Steven A. Pico et al. was the first case dealing with censorship issues to reach the Supreme Court. The results of the court's deliberation were generally disappointing to each side. The constitutional issues were reduced to the single question of whether or not the First Amendment prohibits the school board from removing books from the library and curriculum.¹¹¹

The events leading up to the case began in September 1975 when three members of the Island Trees, New York, School Board attended a conference by Parents of New York United (PONYU), a politically conservative group.

¹¹⁰Ibid.

¹¹¹Pico v Board of Education 474 F. Supp. 387 (E.D.N. Y. 1979) rev'd and remanded, 638 F. 2d 404 (2d Cir. 1980).

Focus for the meeting had been a collection of books that the group declared "objectionable." The books were labeled by PONYU as anti-Christian, anti-Semitic, filthy, and irrelevant. These board members then removed nine books on this list from the high school library and one book from the junior high school library, an action which was taken in violation of the board's own policies, which required a formal review procedure for questionable materials.¹¹²

In the plurality opinion written by Justice Brennan, the intent seems to restrict a board's rights in the library to the selection, and not the retention, of books:

. . . Our adjudication of the present case thus does not intrude into the classroom, or into the compulsory courses taught there. Furthermore, even as to library books, the action before us does not involve the acquisition of books . . . Rather, the only action challenged in this case is the removal from school libraries of books originally placed there by school authorities, or without objection from them.¹¹³

In essence, the major concern is related to the question of selection versus censorship. At what point does the act of selection begin to border on the act of censorship? According to the Pico plurality decision, if the book is not selected for purchase or inclusion in the library, the court defines this as "selection." If the time frame of this activity occurs before the book is actually in the library, the act of not selecting a particular work is not considered to be a form of censorship. If a book is removed from a library, however, and if the purpose is to curtail the dissemination of certain ideas contained in the work, this

¹¹²Ibid.

¹¹³Board of Educ. v. Pico, Case No. 80-2043, 50 L. W. 4831 (1982).

action is defined as censorship.

In summary, school boards do have the right to determine curriculum content and the content of the school library. The plurality of the court, however, strongly believes that this right does not supersede constitutional rights the students might have as individuals. The entire case has been effectively made moot by the reinstatement of the books in the school libraries of the high school and junior high school of Island Trees School District. The books were placed on reserve with the stipulation that they could be checked out with parent permission.¹¹⁴

Equal Educational Opportunity

In the twentieth century, wars and the media were nationalizing forces in American life that led to a degree of uniformity in tastes, traditions, and entertainment, but not necessarily in education. Little uniformity exists from state to state in public school curriculum. No one monitors the common educational needs of American students. Consequently, some students receive an education with different attractive features or, in some cases, with no attractive features.¹¹⁵

The argument that individuals have a right to equal educational opportunities is predicated on the Equal Protection Clause of the Fourteenth Amendment. Numerous legal challenges have been made within recent years by parents who feel that certain practices of the school system are

¹¹⁴ Ibid.

¹¹⁵ John Hope Franklin, "The National Responsibility for Equality of Educational Opportunity," Education Week, October 31, 1984, pp. 24-25.

resulting in unequal educational opportunities for their children.¹¹⁶

Most court cases relating to educational practices between 1960 and 1972 were concerned with problems that relate to basic rights set forth in the First and Fourteenth Amendments to the United States Constitution and similar provisions in state constitutions. These cases can be roughly classified as matters pertaining to race, distribution of wealth to schools, and individual freedoms. The main interest of the courts has been to enforce minimum constitutional requirements and ensure at least a minimally adequate public school program for all students.¹¹⁷

Almost every school in the country with a racially heterogeneous student body has had to develop an integration plan and many school districts have been involved in litigation over racial integration, particularly when busing was required.¹¹⁸

The benchmark decision of the United States Supreme Court in Brown v. Board of Education established a number of legal principles concerning racial discrimination in the public schools.¹¹⁹ Challenged was the point of law, existing in seventeen states and the District of Columbia on a mandatory basis and in four states on a local option basis,

¹¹⁶Charles P. Bentley, "Legal Aspects of Ability Grouping, Tracking, and Classification," (Ed. D. dissertation, University of North Carolina at Greensboro, 1978), pp. 69-70.

¹¹⁷Glenys G. Unruh, "Curriculum Politics." Fundamental Curriculum Decisions, Edited by Fenwick W. English, (Alexandria, Virginia: Association for Supervision and Curriculum Development, 1983), pp. 102-103.

¹¹⁸Ibid.

¹¹⁹Brown v. Board of Education, 347 U.S. 495 (1954).

that children were to be assigned to public schools on the basis of race. The two most important legal principles established by the Brown decision were that the doctrine of "separate but equal" had no place in the field of public education and that the opportunity for an education must be made available to all on equal terms. The legal principles established by this case have been referred to numerous times by various judges in cases that are directly related to equal educational opportunity.¹²⁰

One year later, in 1955, the court issued its order that admissions to public schools on a racially non-discriminatory basis must proceed "with all deliberate speed."¹²¹

The time frame was ripe for a series of landmark cases to follow. Through such cases as Tinker v. Des Moines, P.A.R.C. v. Commonwealth of Pennsylvania, Mills v. Board of Education, and Goss v. Lopez, the legal entitlement of children to be included in school became a reality.¹²²

The passage of Public Law 94-142, the federal Education for All Handicapped Children Act of 1975, has had a dramatic impact on the operation and administration of public schools. Curriculum and services must now be provided for children with severe to mild handicaps, children who until recently were almost never found in the public schools.

¹²⁰ Ibid.

¹²¹ Brown v. Board of Educ. of Topeka, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083 (1955).

¹²² Tinker v. Des Moines, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed. 2d 731 (1969). P.A.R.C. v. Pennsylvania, 334 F. Supp. 1257 (E.D. Pa., 1972). Mills v. Board of Education, 348 F. Supp. 866 (D.C.D.C. 1972). Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed. 2d 725 (1975).

Sessions involving the parent with planning the child's Individual Educational Program have been mandated. Periodic reevaluations follow to insure necessary changes in the child's program.¹²³

Implementation of bilingual education became a strong national issue after the Supreme Court ruled in Lau v. Nichols, that a school system's decision not to offer remedial English to a group of Chinese students was a violation of the students' rights to equal educational opportunities. Even though the school system was providing equal treatment for all students, the results were discriminatory in that failure to provide the non-English-speaking Chinese students with special instructions denied them a meaningful opportunity to succeed.¹²⁴

The broader significance to the changed legal scene in regard to the school's curriculum program is the expansion of the concept of equal educational opportunity.

¹²³Unruh, p.103.

¹²⁴Lau v. Nichols, 414 U.S. 653 (1974).

CHAPTER V
ANALYSIS OF LANDMARK
COURT CASES

This chapter presents a review of landmark decisions and other significant court decisions in the five categories outlined in Chapter I. An overview is presented for each category along with specific facts and judicial decisions. Discussion of each case is presented as it applied. Categories and cases are listed below:

1. Subject Matter in the School Curriculum

Meyer v. Nebraska (1923)
Epperson v. Arkansas (1968)
Madeiros v. Kiyosaki (1970)
Lau v. Nichols (1974)

2. Methods of Instruction and the Curriculum

Guernsey v. Pitkin (1859)
Leeper v. Tennessee (1899)
Wueff v. Inhabitants of Wakefield (1915)
Meyer v. Nebraska (1923)
Parducci v. Rutland (Ala.) (1970)
President's Council District 25 v.
Community School Board No. 25 (1972)

3. Religious Instruction in the Curriculum

Cochran v. Louisiana (1930)
McCullum v. Board of Education (Ill.) (1948)
Engle v. Vitale (1962)
Schempp v. School District, Abington Township,
Pa. (1963)
Epperson v. Arkansas (1968)

4. Censorship of Materials in the Curriculum

Meyer v. Nebraska (1923)
Epperson v. Arkansas (1968)
Tinker v. DesMoines Independent Community
School District (1969)
Parducci v. Rutland (Ala.) (1970)

Minarcini v. Strongsville City School
District (1976)
Pico v. Board of Education, Island Tree
Union Free School District (1982)

5. Equal Educational Opportunities in the Curriculum

Brown v. Board of Education (1954)
Tinker v. DesMoines Independent Community
School District (1969)
Mills v. Board of Education (1972)
San Antonio Independent School District
v. Rodriguez (1973)
Lau v. Nichols (1974)

The landmark United States Supreme Court decisions are reviewed because they pertain to constitutional rights of teachers, students, and parents. Decisions in landmark cases have established legal precedents which influence decisions related to public school curriculum. Other cases present decisions from various courts in the American judicial system.

Subject Matter in the School Curriculum

The courts have maintained that the state, through the legislature, may prescribe certain subjects to be taught in the public schools. Provision must be made in the public schools for courses prescribed by law; however, courts have established that local school boards have discretionary power to select additional courses of study. The courts are in conflict as to whether the authority of a school board to determine curriculum transcends the authority of a parent.

Overview

Parents' right to direct the education of children has been a continuing litigious problem throughout the history of American public

education. The United States Supreme Court has addressed this issue on two occasions--Meyer¹ and Yoder²--and in both cases supported parents' rights to direct the education of their children. School boards and school administrators are reminded that parents have some control over the education of children even when the legislative delegation has enacted legislation encapsulating a specific subject area such as prohibiting teaching foreign language to students below eighth grade level in either public or private schools. The Supreme Court's reminder that "the power of parents to control the education of their own" cannot be disregarded.³

The Supreme Court's 1968 Epperson decision insisted that the Arkansas legislative enactment prohibiting teaching the theory of evolution was unconstitutional. Grounds for this decision was First Amendment free speech and communication abridgment.⁴

The Medeiros decision is a representative case in which parents objected to subject matter on religious grounds. The courts determined that because of the "optional excuse" feature there was no First Amendment violation.⁵

The Lau case determined that non-English speaking students were being denied a Fourteenth Amendment liberty right, the right to acquire useful information.⁶

¹Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed.1042 (1923).

²Wisconsin v. Yoder, 406 U.S. 205, 92 S.Ct. 1526, 32 L.Ed. 2d 15 (1972).

³Meyer v. Nebraska, 262 U.S., p. 401.

⁴Epperson v. Arkansas, 393 U.S. 97, 89 S.Ct. 266, 21 L.Ed. 2d 228 (1968).

⁵Medeiros. Kiyosaki, 52 Hawaii 436, 478 P.2d 314 (1970).

⁶Lau v. Nichols, 94 S.Ct. 786 (1974).

It should be pointed out that the school board may include in the curriculum whatever subjects it deems suitable or necessary unless restrained by the statutes or the constitution.

Meyer v. Nebraska
262 U.S. 390, 43 S. Ct.
625, 67 L. Ed. 1042 (1923)

Facts

In 1919 the State of Nebraska enacted legislation which prohibited teaching foreign languages to students below eighth grade.⁷ The law applied to public, private, and parochial schools. On May 25, 1920, an instructor, Meyer, in Zion Parochial School was charged with reading in the German language to a ten-year-old child who had not yet successfully passed the eighth grade. The intention of the statute was to foster the English language as the mother tongue for children of immigrants. Robert T. Meyer was found guilty by the District Court of Hamilton County. The Supreme Court of Nebraska affirmed the judgement.

Decision

On appeal the United States Supreme Court, with Justice McReynolds writing the decision, insisted the problem was whether the statute unreasonably infringed on the liberty interest protected by the Fourteenth Amendment. Justice McReynolds maintained that the legislature is subject to judicial supervision in matters concerning the proper exercise of police power. It was evident the Nebraska legislature had materially interfered with "the calling of modern language teachers, with the

⁷1919 Neb. Laws, ch 249.

power of parents to control the education of their own."⁸ Justice

McReynolds further asserted:

That the state may do much, go very far, indeed, in order to improve the quality of its citizens, physically, mentally, and morally, is clear; but the individual has certain fundamental rights which must be respected. The protection of the Constitution extends to all,--to those born with English on the tongue. Perhaps it would be highly advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution, -- a desirable end cannot be promoted by prohibited means.⁹

The statute was declared arbitrary and not related to any justifiable end within the power of the state. Thus, the Nebraska Supreme Court judgement was reversed. Justice McReynolds delivered the 7-2 decision.

Discussion

This is an early example of Supreme Court recognition that public school teachers, parents, and students have constitutional rights which must be considered by the state. The Nebraska General Assembly's political activity was in conflict with the Fourteenth Amendment liberty interest.

The right of a teacher once employed to pursue a professional stance in his occupation was reinforced by the decision of the Supreme Court. State statutes must not inhibit this right. Justice McReynolds insisted in part:

Plaintiff in error taught this language in school as part of his occupation. His right thus to teach and right of parents to engage him so to instruct their children, we think, are within the liberty of the Amendment....Evidently the Legislature has attempted materially to interfere with the calling of modern language teachers...¹⁰

⁸Meyer v. Nebraska, 262 U.S., p. 401.

⁹Ibid.

¹⁰Ibid., p. 627

School boards and administrators must always be aware that the Fourteenth Amendment liberty interest supports teachers' professional judgement in teaching in the classroom. School board policy and administrative rules and regulations must be established and employed in such manner that does not impede the professional process.

Epperson v. Arkansas
393 U.S. 97, 89 S. Ct. 266, 21 L. Ed. 2d 228 (1968)

Overview

This landmark Supreme Court decision insisted that Arkansas legislative enactment prohibiting teaching the theory of evolution was unconstitutional. This decision is almost always referred to in judicial decisions concerning First Amendment religious establishment violations and First Amendment free speech and communication abridgment.

Facts

An Arkansas public school biology teacher litigated the state statute which prohibited the teaching in state supported elementary and secondary schools and universities of Darwin's theory of evolution. Furthermore, textbook adoption which included the Darwinian theory was also prohibited. The teacher was scheduled to use a newly adopted biology textbook that included a chapter concerning Darwinian theory of evolution. Violation of the state statute was a misdemeanor and teachers were subject to dismissal for teaching the Darwinian theory.

Plaintiffs challenged the constitutionality of the anti-evolution statute which was in essence based on the 1925 Tennessee "monkey law." The Arkansas Chancery Court insisted the statute violated the Fourteenth

Amendment of the Constitution. On appeal the Arkansas Supreme Court reversed the decision. The Arkansas Supreme Court maintained that the statute was a legitimate exercise of state authority to prescribe curriculum in public schools. On appeal the United States Supreme Court reversed the Arkansas Supreme Court seven to two on First and Fourteenth Amendment grounds.

Decision

Justice Abe Fortas delivered the Court's decision. Justice Fortas' commentary stated, "plainly the law is contrary to the mandate of the First and in violation of the Fourteenth Amendment to the Constitution."¹¹

Continuing, Justice Fortas maintained that:

1. State and the Federal government must remain neutral in religious theory, doctrine and practices. Government may not aid, foster, or promote one religion or religious theory over another. Government may neither oppose religion nor advocate non-religion.
2. Courts are reluctant to interfere with the daily operation of public schools. However, where there is violation of basic constitutional values the judiciary must intrude. "Laws that cast a pall of orthodoxy over the classroom" are a violation of the freedom-of-religion provision of the First Amendment and therefore they cannot be tolerated.¹²
3. The supreme Court is always concerned with the invasion of academic freedom.
4. Study of the Bible and religions from a historical and literary viewpoint is a legitimate exercise of the secular program of education. However, the First Amendment insists that states may not adopt curriculum programs and/or practices that foster or oppose any religion.

¹¹Epperson v. Arkansas, 393 U.S., p. 109.

¹²Ibid., p. 105.

5. Finally, the state's authority to prescribe curricula does not include punishing teachers, on pain of criminal penalty, if the prohibiting--in this case teaching Darwin's theory of evolution--is flawed with First Amendment violations.

Discussion

While the Arkansas General Assembly legislative action is the focal point of Epperson, other states throughout America's history have enacted "Genesis" statutes. Thus, whenever there are legislative imperatives, school board policies, and/or school administrator discretion encapsulating religion and the education process--regardless of the complainant--the Epperson dictum provides judicial guidelines for cutting the constitutional Gordian knot.¹³

Finally, in early 1981 the Arkansas General Assembly enacted another "Genesis" statute known as the "balanced treatment statute." The statute required that balanced treatment be presented when teaching human origins--balanced treatment between scientific evolution theory and scientific creationism. Already a Federal District Court in Little Rock has declared the statute unconstitutional as First Amendment religious advancement--a "Genesis" statute in any form is still a "Genesis" statute.¹⁴ At this writing there are some nineteen other states with similar legislative proposals. Louisiana's General Assembly has also enacted a balanced treatment statute into law.

¹³Ibid.

¹⁴McLean v. Arkansas Bd. of Education, 529 F. Supp. 1255 (E.D. Ark. (1982)).

Medeiros v. Kiyosaki
52 Hawaii 436, 478 P.2d 314 (1970)

Facts

A family life and sex education program was adopted by the State of Hawaii. The State Superintendent of Education, upon recommendation from the Department of Education staff, selected a film series, "Time of Your Life," to be used with the curriculum. The film series was initially developed for educational television and previously used in San Francisco. The film package consisted of fifteen lessons covering inter-personal relationships, self-understanding, family structure, and sex education. Lessons eleven through fifteen covered sexuality and sexual development and supplemented classroom lessons planned by the teacher for fifth- and sixth-grade students. Parents could request that children be excused from the lessons.

Parents of fifth- and sixth-grade students claimed that viewing the films interfered with parents' rights to educate their children in matters of sex and thus violated constitutional right to privacy and religious freedom.

Decision

The First City and County Circuit Court of Honolulu dismissed the complaint and it was appealed to the Supreme Court of Hawaii.

The Hawaii Supreme Court with Chief Justice Richardson writing the opinion affirmed the lower court, maintaining:

1. Fifth- and sixth-grade students "optional excuse" from participation in the film series upon parents' request negated parents' constitutional protest concerning privacy.

2. Moreover, because of the "optional excuse" feature there was no First Amendment free religious exercise violation.
3. State boards of education have broad discretionary powers in establishing curricula and institution educational programs in the state's public schools.
4. The film series of family life and sex education had been properly adopted by the state board of education.

Discussion

The Medeiros homily provides common sense guidelines for school boards and school administrators: (1) in sensitive areas of family life and sex education curriculum policy safeguards must be established buffering parents' constitutional right to privacy and First Amendment free religious exercise; and (2) an appropriate policy was developed and was precisely followed in selection of instructional material in sensitive curriculum areas.

Lau v. Nichols
Supreme Court of the United States
94 S. Ct. 786 (1974)

Facts

This class suit was brought by non-English speaking Chinese students against the San Francisco Unified School District seeking relief against the unequal educational opportunities available which allegedly were in violation of the Fourteenth Amendment. The petitioner asked that the Board of Education rectify the situation.

Decision

The District Court denied relief. The Court of Appeals affirmed, stating that there was no violation of the Equal Protection Clause of the Fourteenth Amendment nor of statute 601 of the Civil Rights Act of 1964.

The Supreme Court reversed the judgment and remanded the case for appropriate relief.

Discussion

Justice Douglas provides the essential explanation of why the Supreme Court reversed the lower court's decision:

Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful. . .¹⁵

These minority students were placed in regular English-speaking classes with supplementary English courses being given to those with language handicaps. A child who cannot understand English is being denied the liberty to acquire useful information by being compelled to attend classes given in a language which he cannot understand. The issue was basically this: Did minority language children comprise an identifiable class which was being denied an equal educational opportunity in English-only classrooms and whose constitutional right to equal protection had, therefore, been violated?

As the only Supreme Court guidance on the issue of the right of language minority children to an equal education, the Lau case established guidelines for the years that followed.

One of the most dramatic effects of the Lau decisions was a

¹⁵Lau v. Nichols 94 S. Ct. 786 (1974).

¹⁶Ibid.

proliferation of state statutes mandating bilingual education programs. Within one year after the Lau holding, eight states had mandated that school districts provide bilingual instruction. The Massachusetts statute, a model for several others, orders transitional bilingual education where twenty or more children within a school district are of limited English speaking ability and speak a common native language.¹⁷ The Texas statute mandates bilingual instruction for districts with twenty or more children of limited English speaking ability in any language classification in the same grade level.¹⁸

Methods of Instruction and the Curriculum

Overview

School boards are empowered through state constitutional and statutory authority to prescribe curriculum and to select library books and other instructional materials. School board authority, however, must always be balanced with the constitutional rights of teachers, students, and parents. Cases presented in this category reveal the courts' line of reasoning as the judiciary has sought to bring about a constitutional school board authority balance when censorship is involved.

Any discussion of the legal concept of school board's authority to select and remove books and instructional materials must begin with the United States Supreme Court's Meyer decision.¹⁹ Meyer's importance has

¹⁷Mass. Ann Laws, Ch. 71A (West Supp. 1978-79).

¹⁸V.T.C.A. Education Code, Section 21.451-460.

¹⁹Meyer v. Nebraska, 262 U.S. 390, 43 S. Ct. 625, 67 L. Ed. 1042 (1923).

already been chronicled earlier in this chapter. However, there are two important salient quotes from the Meyer case that should be shared again: (1) "the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and with the power of parents to control the education of their own," and (2) "this cannot be coerced by methods which conflict with the Constitution,--a desirable end cannot be promoted by prohibited means."²⁰

When questions relating to textbooks and methods of instruction have come before the courts, the attitude of the court, in general, has been not to interfere with the procedures established by school authorities. The local school board must comply with the state legislature.

In Guernsey v. Pitkin, 1859, the Vermont court sustained the action of a school board for expelling a pupil who refused to write an English composition.²¹ An early Tennessee case Leeper v. Tennessee upheld the authority of a legislature to determine method of instruction.²² The Massachusetts Supreme Court in Wulff v. Inhabitants of Wakefield determined that the methods used to correct classwork was purely administrative detail for teachers and the school board.²³

In Parducci v. Rutland, 1970, the court ruled in favor of the teacher who had been dismissed because of assigning a short story. The court favored

²⁰Ibid., p. 1046.

²¹Guernsey v. Pitkin, 32 Vt. 224, 76 AM Dec 171 (1859).

²²Leeper v. Tennessee, 103 Tenn 500, 53 SW 962 (1899).

²³Wulff v. Inhabitants of Wakefield, 221 Mass. 427, 109 NE 358 (1915).

the teacher's First Amendment rights emphasizing that "to teach, to inquire, to evaluate and to study is fundamental to a democratic society."²⁴

In President's Council, District 25 v. Community School Board No. 25, the court supported the concept that a school board had the authority to limit access to materials.²⁵

While local school boards have broad authority to select and regulate curriculum, and great discretionary latitude in exercising authority over adoption of textbooks and other instructional materials, the extent to which a local board can exercise its authority to control and regulate instructional materials when such regulation conflicts with the academic freedom rights of teachers is more uncertain.

Generally, faculty argue that the notion of academic freedom entitles teachers to make decisions about the selection of course content, instructional materials, and teaching methods. Local school boards frequently answer that in attempting to promote student welfare, the school boards have to review, and in some cases restrict, the teacher's decisions in classroom instruction.

Guernsey v. Pitkin
32 Vt. 224, 76 AM. Dec. 171 (1859)

Facts

The court, in this case, was primarily concerned with answering three basic questions: (1) Was the requirement by a school board (and teachers)

²⁴Parducci v. Rutland, 316 Supp. (M.D. Ala. 1970).

²⁵President's Council, District 25 v. Community School Board No. 25, 457 F. 2d (2d. Cir.), cert. denied, 409 U.S. 998 (1972).

for pupils to participate in grammar composition exercises reasonable?

(2) Was a request from parents for exemption of a student from the exercises legitimate? (3) Was the student punishment reasonable and proper?

George H. Guernsey was an 18-year-old student who lived with his father and attended school in the district which was later to become defendant in the case. The prudential committee of the school district hired a teacher who, near the beginning of the school term, established a requirement that all students must write and participate in grammar composition exercises. George Guernsey, the plaintiff, refused to state whether he would comply or not. At the point of his refusal, the teacher advised the school committee of the problem, whereupon the school committee notified the father. At the next class meeting the plaintiff furnished neither the required composition nor a written request from his father that he be exempted from the composition requirement. When sent home again by the teacher, to bring such a written statement, the plaintiff failed to do so, and told the teacher that his father said, "...he had not any business with her, and if she had any business with him she must come and see him."²⁶

The teacher reported this conversation to the school committee, whereupon the school committee instructed the plaintiff that he should not attend school until he provided the required composition or brought a note from his father requesting that he be exempted. The committee

²⁶Guernsey v. Pitkin, 32 Vt. 224, 86 AM. Dec. 171 (1859).

further instructed the teacher that, in the event the plaintiff did attend the class, he should be ignored until he obeyed the regulations set down by the teacher. This situation continued for approximately three weeks, after which time the plaintiff was expelled from the school. The father and son then brought suit against the school district prudential committee.

Decision

The lower court maintained that the requirement of grammar composition was reasonable and proper and that the teacher had made sufficient effort to induce the student to comply. The court also ruled that the student could have been legitimately excused from the participation in the grammar exercise if his father had furnished a written request to that effect. In addition, the court upheld the defendant school committee regarding the punishment instituted, ruling that the expulsion of a student from school is reasonable consequence for the refusal to comply with a reasonable demand. This decision was affirmed by the appeals court, with Chief Justice Isaac Redfield presiding.

The ruling by the Chief Justice Redfield is partially cited here:

But in regard to those branches which are required to be taught in the public schools, the prudential committee and the teachers must of necessity have some discretion as to the order of teaching them, the pupils who shall be allowed to pursue them, and the mode in which they shall be taught. If this were not so, it would be impossible to classify the pupils, or for one teacher to attend to more than ten or twelve pupils.

With this concession to the teacher of fixing the mode of teaching these branches, it seems very obvious that English composition may fairly be regarded as an allowable mode of teaching many of these branches.

and further:

So that in regard to instruction in the specific branches of common school education, the writing of english composition in different forms may be regarded as an allowable mode of teaching the majority of them.

There is truth and force in Lord Bacon's apothegm, wherein he reduces all learning to three processes, reading, writing and speaking. "Reading makes a full man, writing a correct man, and speaking a ready man."

Judgment affirmed.²⁷

Discussion

The decision of the court in the Guernsey v. Pitkin case serves as the earliest and strongest precedent-setting ruling in the area of language arts and prompted many school committees and boards of education to permanently add language arts as a required course in the school curriculum.²⁸ In this landmark decision, trends in several areas were begun. Most important, perhaps, the court clearly established that language arts could be instituted by statute as a required part of the public school academic curriculum and that students enrolled in such a course could be required to participate in the course activities. This portion of the ruling clearly defined the role of the state legislature as that of a governing body empowered with the right and responsibility, in the absence of abuse of discretion, to determine the public school curriculum and to delegate that authority to local boards of education.

Also of importance to future curriculum litigation was the decision by the court that a written excuse from the father of the plaintiff would have exempted the son from the composition requirement.

²⁷Ibid.

²⁸Ibid., p. 227.

Of no less importance was the third question spoken to by the justices. In this case, and in countless cases which followed it, the courts ruled that the punishment was reasonable.

Leeper v. State
103 Tennessee 500,
53 SW 962 (1899).

Facts

Edward Leeper was a public school teacher in School No. 5 in Blount County, Tennessee. He was indicted by the State of Tennessee for using Butler's Geography and New Electric Elementary Geography instead of the state adopted textbook, Frye's Introductory Geography.

In Tennessee, the textbooks selected by the commission were to be used for five years in all the public schools of the state, and it was unlawful for any school officer, director, or teacher to use any other textbooks.

Decision

In the Circuit Court, Blount County, Tennessee, Edward Leeper was convicted of violating the "Uniform Textbook Act" and was sentenced to pay \$10 and cost. The case was appealed to Supreme Court of Tennessee and was affirmed. The court held that it was not unconstitutional for textbook commission to award to the lowest bidder the exclusive privilege, for specified periods, to furnish textbooks. It was established that the legislature may establish a uniform system of textbooks.

Discussion

Judge J. Wilkes delivered the opinion:

. . . The authority of the state over schools is a legislative one, and it is difficult to see how a uniform system can be maintained which will confer equal benefits upon all sections of the state, unless it is done by legislative action. If the authority to regulate and control schools is legislative, then it must have an unrestricted right to prescribe methods, and the courts cannot interfere with it, unless some scheme is devised which is contrary to other provisions of the Constitution. . .²⁹

Wilkes continues to explain the method of regulating the use of textbooks and concludes with the following statement:

. . . It simply assumes the power of declaring that the person whom the state board of education decides is the lowest bidder shall have the exclusive privilege of supplying its schools with books... For the reasons stated, we are of opinion the act is valid and constitutional, and there is no error in the judgment of the court below, and it is affirmed, with costs.³⁰

Wulff v. Inhabitants of Wakefield
221 Mass. 427, 109 NE 358 (1915)

Facts

The stepfather of a high school student, Emma Wulff, protested to the school committee because of the practice of having student's work corrected by a fellow student, Miss North. The stepfather requested that Emma's work be corrected by the teacher only. The request was refused and the student did not attend class. Emma Wulff was told she must attend class or be suspended. When she did not comply she was formally suspended. The stepfather brought suit against Inhabitants

²⁹Leeper v. Tennessee, 103 Tenn 500, 53 SW 962 (1899).

³⁰Ibid.

of Wakefield for excluding his stepdaughter.

Decision

It was determined that this matter was one purely of administrative detail and that no legal right of the pupil or her parent was violated. The Supreme Court of Massachusetts maintained that "the determination of the procedure and the management of pupils and studies rests in the wise discretion of teachers and school committees, whose action in these respects is not subject to supervision by the courts."³¹

Discussion

Judge Pierce's delivery was succinctly pointed:

The real and vital question is not whether the plaintiff was guilty of misconduct in refusing to attend her class, but whether a parent has the right to say a certain method of teaching any given course of study shall be pursued. The question answers itself. Were it otherwise, should several parents hold diverse opinions all must yield to one or confusion and failure inevitably follow.³²

Judge Pierce elaborated that determining methods of instruction was best left to the discretion of teachers and school committees--not courts.

Parducci v. Rutland
316 F. Supp. 352 (M.D. Ala. 1970)

Facts

A first-year English teacher Marilyn Parducci brought action against members of the school administration and school board of Montgomery

³¹Wulff v. Inhabitants of Wakefield, 221 Mass. 427, 109 NE 358 (1915).

³²Ibid.

County, Alabama, because of dismissal for assigning a short story, Kurt Vonnegut's Welcome to the Monkey House, to her high school junior class. Parents of the students complained about the story. Miss Parducci's teaching ability was never the issue. The principal insisted that she would have received a favorable evaluation except for the single incident. After reading the story the principal and associate superintendent described it as "literary garbage."

Miss Parducci asserted that dismissal for assigning the story violated her First Amendment right to academic freedom. She sought reinstatement to her teaching position.

Decision

Chief Justice Johnson writing the court's opinion insisted that teachers are entitled to First Amendment protection and that such constitutional security is unaffected by the presence or absence of tenure. Substantial and/or material disruption of the schooling process must be demonstrated in order to restrict teacher First Amendment rights. School officials did not establish that use of the short story caused disruption. Moreover, school officials failed to establish that the assignment was inappropriate for the students. This particular short story had not previously been prohibited from classroom use; therefore, the teacher could not be punished for conduct not proscribed in clear and precise terms.

Justice Johnson insisted:

1. Plaintiff should be reinstated for the duration of the contract, with all the rights and privileges held prior to the illegal suspension.

2. Salary should be paid to the plaintiff for both the period during suspension and the remainder of the contract.
3. Defendants must expunge from plaintiff's employment record any reference to suspension and dismissal.
4. Defendants must pay all court costs.

The court ruled in favor of the teacher and emphasized that "the right to teach, to inquire, to evaluate, and to study is fundamental to a democratic society."³³

The court concluded by stating:

When a teacher is forced to speculate as to what conduct is permissible and what conduct is proscribed, he is apt to be overly cautious and reserved in the classroom. Such a reluctance on the part of the teacher to investigate and experiment with new and different ideas is anathema to the entire concept of academic freedom.³⁴

Discussion

In this case the court decisively supported the right of academic freedom for teachers. Moreover, Justice Johnson asserted that presence or absence of tenure under state law does not affect constitutional rights.

The state's interest in protecting students from inappropriate reading materials was balanced against the teacher's academic freedom. Justice Johnson determined the short story was not obscene and was indeed appropriate reading for juniors in high school. In making this decision the court relied on its own judgement indicating the literary and social

³³Parducci v. Rutland, 316 F. Supp. 352 (M.D. Ala. 1970).

³⁴Ibid.

value of the questioned material. Further, the court was not explicit in stating whether the school board's claim that the material was "literary garbage" was arbitrary. Likewise the court did not address the constitutionality of parents' complaints.

A most important question arising from the decision is the matter of future reading assignments. Justice Johnson asserted that a teacher may not be dismissed unless prior notice has been received that assignment of particular material is impermissible. School authorities in this case had tried to obtain agreement from the teacher not to assign the short story in the future. The teacher refused to agree.

This issue raises a provocative question. What if the school board banned the questionable book--simply prohibited by school board policy the book's use. Suppose the teacher ignored the school board policy and assigned the book anyway. We now have a hard case of insubordination. The provocative question is: Would the Parducci Court still maintain First Amendment academic freedom for the teacher? If the answer is yes then the Parducci Court ultimately has the power to determine the educational value of curricula.

Presidents Council, District 25 v. Community
School Board No. 25
457 F.2d 289 (2d Cir.,) cert. denied,
409 U.S. 998 (1972)

Facts

On March 31, 1971, Community School board No. 25, Queens, New York, removed all copies of Piri Thomas' novel Down These Mean Streets from all junior high school libraries in the school district. In June of that year the school board passed a unanimous motion retaining the book in

school libraries that previously had the book. However, the book was made available to students only on direct loan to their parents. Teachers were allowed to discuss the book in class and assign it for outside reading. The librarian was not penalized.

The Presidents Council, District 25 (Plaintiffs) is an organization of current and past presidents of various parent-teacher groups, three junior high school students, parents and guardians of students, two teachers, a librarian, and a junior high school principal. The appellants maintained that removal of the book violated their First Amendment rights.

Decision

The Second Circuit Court of Appeals with Justice Mulligan writing the opinion acknowledged that the New York legislature delegated authority to select materials in public school libraries to community school boards. Moreover, Justice Mulligan insisted, limited access to the book did not violate the First Amendment. Thus, said Justice Mulligan, it was inappropriate to review the school board's decision.

Discussion

This was the first judicial decision supporting the concept that a school board had the authority to limit access to a specific book which the school board considered inappropriate for students. The Second Circuit Court of Appeals found no First Amendment violation and, therefore, did not consider it necessary to review the decision of the school board, "We do not consider it appropriate for this court to review either the wisdom or efficacy of the determinations of the board."³⁵ Justice Mulligan

³⁵Presidents Council Dist. 25 v. Community School Bd. No. 25, 457 F.2d, p. 291.

likewise acknowledged that administrative procedures available in New York to review school board decisions had not been exhausted. Justice Mulligan made no distinction between the school board's authority to either select and/or remove books. Justice Mulligan also did not allude to the school board's social and/or political tastes.

On appeal the Supreme Court denied certiorari with Justices Potter, Stewart, and William O. Douglas dissenting.³⁶ In his dissenting opinion Justice Douglas maintained:

At school the children are allowed to discuss the contents of the book and social problems it portrays. They can do everything but read it. This in my mind lessens somewhat the contention that the subject matter of the book is not proper.³⁷

Justice Douglas further contended the First Amendment is the preferred right upholding the "right to hear, to learn, to know."³⁸

It should be pointed out that at approximately the same time the Second Circuit was deciding Presidents Council the Sixth Circuit was deciding Minarcini with a decided opposing position insisting that library book removal instituted First Amendment violation.

³⁶Presidents Council Dist. 25 v. Community School Bd. No. 25, 409 U.S. 998 (1972).

³⁷Presidents Council Dist. 25 v. Community School Bd. No. 25, 409 U.S. p. 999.

³⁸Ibid.

Religious Education
in the School
Curriculum

Overview

The United States Supreme Court has had to feel its way in applying the religious clauses to the schools since there were no public schools when the First Amendment was written.

Among the religious education precedents evolving from cases heard by the court system, two general categories have been identified. One category involves public aid such as the 1930 landmark case of Cochran v. Louisiana, and the other category includes cases dealing with religious activities within the schools. The category of religious activities includes these landmark decisions: McCullum, 1948, (released time); Engel, 1962, (prayer); Schempp, 1963, (Bible reading); and Epperson, 1968, (evolution). Each of these cases is reviewed with the exception of Epperson which was reviewed earlier in chapter.

Cochran v. Louisiana State
Board of Education
281 U.S. 370 (1930)

Facts

A Louisiana law required that tax money be spent to supply textbooks to all school children at no charge. Public and private school students, including students of private, sectarian schools, were benefited by the law. Suit was brought by a group of taxpayers in Louisiana to restrain the state board of education from expending funds to

purchase school books and to supply them free of charge to the school children of the state on the grounds that doing so violated the Constitution.

Decision

In an unanimous decision the court denied the charge brought by Cochran that the practice violated the Fourteenth Amendment, Due Process Clause and the Equal Protection Clause. Secular textbooks could be provided to school children attending private, sectarian schools as well as to those attending public schools.

Discussion

The Fourteenth Amendment forbids the states from depriving a person of life, liberty or property without due process of law. The provision of secular texts to all school children serves a public interest and does not benefit the private interest of church schools or of parents of parochial school students in such a way as to violate the due process clause.

Speaking for the court, Chief Justice Hughes agreed with the state Supreme Court's opinion which said that the books were not bought for schools but for children:

. . . True, these children attend some school, public or private, the latter, sectarian or nonsectarian, and that the books are to be furnished them for their use, free of cost, whichever they attend. The schools, however, are not beneficiaries of these appropriations. They obtain nothing from them, nor are they relieved of a single obligation because of them. The school children and the state alone are the beneficiaries . . . What the statutes contemplate is that the same books that are furnished children attending public schools shall be

furnished children attending private schools. This is the only practical way of interpreting and executing the statutes, and this is what the state board of education is doing. Among these books, naturally, none is to be expected, adapted to religious instruction.³⁹

This is the first mention of the "child benefit" theory as distinguished from direct support of sectarian schools.

McCullum v. Board of Education (Ill.)
333 U.S. 203, 68 S. Ct. 461 (1948).

Facts

Vashti McCollum, a resident and taxpayer of Champaign, Illinois, had a child enrolled in the Champaign public schools. Illinois had a compulsory attendance law applied to each child aged seven to sixteen. The law required each child to be in attendance during the hours when school was in session. Failure of the parents to keep children either in public or private school was a misdemeanor.

Religious instruction was offered in Champaign public schools by a group of religious teachers who were employed by the Champaign Council on Religious Education, a private religious group including Catholic, Protestant, and Jewish members. McCollum alleged that the religious teachers were permitted to come weekly into the school during regular hours set apart for secular teaching, and then and there for thirty minutes substitute their teaching for secular teaching.⁴⁰

There was nothing compulsory about the classes which could be

³⁹Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930).

⁴⁰McCullum V. Board of Education, Ill., 333 U.S. 203, 68 S. Ct. 461 (1948).

attended only with written request from home. Children not excused from regular class for religious instruction stayed in the regular classroom while those excused were sent to the study hall. Absences and attendance at religious classes were kept by regular classroom teachers. Religious instruction was offered to grades four through nine. Classes were offered in three faiths by Protestant teachers, Catholic priests, or a Jewish rabbi.

Decision

The Illinois State District Court had denied Mrs. McCollum's petition, and on appeal the State Supreme Court affirmed. The case was appealed to the United States Supreme Court where the decision of the State Supreme Court was reversed and the practice of releasing students for religious instruction on campus and in public school classrooms was declared unconstitutional as First Amendment establishment of religion. Justice Hugo Black presented the 8-1 decision.⁴¹

Discussion

Justice Hugo Black, writing the majority opinion said:

The foregoing facts, without reference to others that appear in the record, show the use of tax-supported property for religious instruction and the close cooperation between the school authorities and the religious council in promoting religious education. The operation of the State's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects. Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment.⁴²

⁴¹Ibid., p. 212.

⁴²Ibid., pp. 209-210.

Justice Black, continuing the discussion of facts, drew heavily on Everson v. Board of Education, in saying ". . . the First Amendment has erected a wall between Church and State which must be kept high and impregnable." 43

Justice Black insisted that it was:

. . . beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. . . Here not only are the State's tax-supported public school building used for dissemination of religious doctrines. The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the State's compulsory public school machinery. This is not separation of Church and State.⁴⁴

Justice Felix Frankfurter, in concurring with majority opinion said,

Separation means separation, not something else. Jefferson's metaphor in describing the relation between Church and State speaks of a 'wall of separation,' not of a fine line easily overstepped. The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny. In no activity of the State is it more vital to keep out divisive forces than in its schools, to avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart. 'The great American principle of eternal separation'--Elihu Root's phrase bears repetition--is one of the vital reliances of our Constitutional system for assuring unities among our people stronger than our diversities. It is the Court's duty to enforce this principle in its full integrity.⁴⁵

This was the first case on the subject of released time to come before the Supreme Court.

⁴³Everson v. Board of Education, 330 U.S. 1.

⁴⁴McCullum, p. 212

⁴⁵Ibid., p. 231.

Engel v. Vitale (N.Y.)
370 U.S. 421, 82 S. Ct. 1261 (1962)

Facts

Engel was the first morning devotions case accepted by the court. In November, 1951, the New York State Board of Regents, the agency charged by law with the supervision of the state's school system, recommended that the pledge be accompanied by a short prayer to God: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country." ⁴⁶

The Board of Education of Union Free District Number Nine, Hyde Park, New York, adopted the so-called "Regents' Prayer." The school board instructed district principals to institute the prayer as a daily exercise to follow the salute to the flag.

In 1959, a group of five parents representing ten children in the Hyde Park School System brought suit in Special Term Court for relief. The parents represented Jews, Ethical Culturalists, Unitarians, and one non-believer. They asked the Special Term Court to direct the Board of Education to stop the daily exercise of prayer which was offensive to some children and abridged the First Amendment right to freedom of religion. ⁴⁷

Decision

Relief was denied by Special Term Court, whereby the parents appealed to the Appellate Division. The Supreme Court of Naussau County, New York, affirmed the lower court's decision in denying relief to the parents

⁴⁶ Engel v. Vitale, 370 U.S. 421 (1962), p. 422.

⁴⁷ Ibid.

from the religious exercise. The United States Supreme Court reversed the decision of the New York Supreme Court and declared the recitation of the Regents Prayer unconstitutional. The prayer violates the establishment clause of the First Amendment.

Discussion

Despite a provision to excuse non-participants, the practice was a religious activity that breached the wall of separation between church and state said the court; and it was reminiscent of the British government's sponsorship of the Book of Common Prayer. Speaking for the court, Justice Black said that the Establishment Clause:

. . . must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.⁴⁸

As it had in McCullum, the court deliberately rejected the argument that its holding would "indicate hostility toward religion or toward prayer." It also made clear, in a footnote that the decision should not be construed as discouraging school children from expressing:

love for our country by reciting historical documents such as the Declaration of Independence, which contains reference to the Deity, or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or . . . many manifestations in our public life of belief in God. Such patriotic or ceremonial occasions bear no true resemblance to . . . religious exercise.⁴⁹

⁴⁸Ibid., pp. 429-430.

⁴⁹Ibid.

Justice Black commented on the struggle of James Madison and Thomas Jefferson in establishing religious freedom in the New World with the passage of the Virginia Bill for Religious Freedom. Justice Black commented on the brevity of the Regents' Prayer, but cautioned using words from James Madison's "Remonstrance":

It is proper to take alarm at the first experiment on our liberties. . . Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects? That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?⁵⁰

The Schempp case is the precedent upon which subsequent court rulings concerning the reading of Bible verses in school are based.

Abington School District v. Schempp (Pa.)
374 U.S. 203, 83 S. Ct. 1560 (1963)

Facts

Roger and Donna Schempp were students of Abington Senior High School, which is a public school in the Abington, Pennsylvania school district. Ellory Schempp, an older brother, had graduated from the high school in the township. The Schempp family--father Edward, mother Sidney, and the three children--were faithful members of the Unitarian Church.

Daily opening exercises took place at Abington High School between 8:15 and 8:30 when students were in homeroom. At this time each day, students from the radio and television workshop class at school conducted

⁵⁰Ibid., p. 436.

opening exercises over the public communication system. Selected students read ten verses from the Bible, which were broadcast to each classroom in the building. The Bible reading was followed by all the children standing to recite the Lord's Prayer in unison.

These exercises were followed by a flag salute and any pertinent announcement from the administration. Students reading the verses were free to read from any version of the Bible although the only copies furnished by the school were the King James version.

There were no explanatory comments, no questions asked, none solicited, nor any interpretations made during the exercise. On written parental request, a child could be excused from the exercise. Students were advised that if they wanted to remain in the class they would not be compelled to participate in the exercise. Participation in the opening exercise was voluntary.

These opening exercises were in accord with Pennsylvania Statute Number 15-1516 that required: "At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of the student's parent or guardian." 51

Schempp, his wife and three children brought suit to enjoin the enforcement of the statute. The Schempps claimed that the Fourteenth Amendment right had been violated and would continue to be unless the statute was declared unconstitutional as violating First Amendment rights of citizens.

⁵¹ Abington School District v. Schempp (Pa.), 374 U.S. 203, 83 S. Ct. 1560 (1963).

Decision

The three-judge District Court for the Eastern District of Pennsylvania agreed with the contention of Schempp that the practice violated the First Amendment as applied to the states by the Due Process Clause of the Fourteenth Amendment and directed that appropriate injunctive relief be issued. The school district appealed the decision to the United States Supreme Court. The United States Supreme Court by an eight to one decision upheld the district court decision.

Discussion

The District Court had determined that:

The reading of the verses, even without comment, possesses a devotional and religious character and constitutes in effect a religious observance. The devotional and religious nature of the morning exercises is made all the more apparent by the fact that the Bible reading is followed immediately by a recital in unison by the pupils of the Lord's Prayer. The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony for . . . Section 1516. . . unequivocally requires the exercises to be held every school day in every school in the Commonwealth. The exercises are held in the school buildings and perforce are conducted by and under the authority of the local school authorities and during school sessions. Since the statute requires the reading of the 'Holy Bible', a Christian document, the practice . . . prefers the Christian religion. The record demonstrates that it was the intention of . . . the Commonwealth . . . to introduce a religious ceremony into the public schools of the Commonwealth.⁵²

The Schempp opinions occupied 115 pages. The Supreme Court Justices reviewed almost every argument on both sides, as well as nearly all of the history of the religion clauses.

⁵² Ibid., pp. 210-211.

Justice Clark drew heavily upon Engel, and upon Everson, and Zorach for writing the opinion of the court.⁵³ Justice Clark pointed out that the court had decided in Cantwell v. Connecticut that the Fourteenth Amendment embraced the freedoms guaranteed in the First Amendment.⁵⁴

First, it was argued that there was no establishment of religion because participation was voluntary. Justice Clark replied that the practice supported religion. He referred to former opinions about indirect coercion upon non-participating children, citing a Court principle:

A violation of the Free Exercise Clause is predicated on coercion while the Establishment Clause violation need not be so attended.⁵⁵

Second, proponents said that the Bible reading was not a religious exercise but was secular in intent, seeking to promote moral values. The court responded by pointing out the "place of the Bible as an instrument of religion" and to:

the State's recognition of the pervading religious character of the ceremony . . . from the rule's specific permission of the alternative use of the Catholic Douay version as well as . . . permitting nonattendance at the exercises.⁵⁶

⁵³Engel v. Vitale (N.Y.), 370 U.S. 421, 82 S. Ct. 1261 (1962). Everson v. Board of Education of Ewing Twp. (N.J.), 330 U.S. 1, 91 LED, 67 S. Ct. 504 (1947). Zorach v. Clauson (N.Y.), 343 U.S. 306, 725 S. Ct. 679 (1952).

⁵⁴Cantwell v. Connecticut, 310 U.S. 296, 303 (1940).

⁵⁵Abington School District v. Schempp (Pa.), 374 U.S. 203, 83 S. Ct. 1560 (1963), p. 223.

⁵⁶Ibid., p. 224.

Third, it was claimed that the exercises did not "establish a church." The court acclaimed:

It is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, "it is proper to take alarm at the first experiment on our liberties."⁵⁷

Fourth, proponents espoused that forbidding these practices interfered with the majority's free exercise of religion. The court's reply:

. . . the Free Exercise Clause . . . has never meant that a majority could use the machinery of the State to practice its beliefs.⁵⁸

Fifth, the accusation was made that hostility toward religion established a "religion of secularism" in the schools, driving the Bible and religion from the schools.⁵⁹ Justice Clark acknowledged the importance of religion in our society:

It may well be said that one's education is not complete without a study of comparative religion or of the history of religion and its relation to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment.⁶⁰

⁵⁷Ibid., p. 225.

⁵⁸Ibid., p. 226.

⁵⁹Ibid., p. 225.

⁶⁰Ibid.

Censorship of Materials
in the School
Curriculum

Overview

Censorship involving public schools is a growing concern to public school personnel. Any level of public education may be confronted with controversy concerning library books, films, periodicals, instructional materials, or matters involving curricula.

Censorship involves major constitutional issues such as academic freedom, students' rights, parents' right to direct the education of children, religious freedom and the authority of school administrators and school boards.

Court cases reviewed include Meyer, 1923, (parents' right to direct education of children); Epperson, 1968, (religious freedom of public school students); Tinker, 1969, and Minarcini, 1976, (students right to read, inquire, and receive information); Parducci, 1970, (academic freedom of public school teachers); and Pico, 1982, (right of school boards to select and remove library and instructional materials). All of these cases are reviewed in this chapter.

Meyer v. Nebraska
262 U.S. 390, 43 S. Ct. 625 (1923)

This case has been reviewed earlier in the chapter. Meyer established the parents' right to direct the education of their children. In 1923, the Supreme Court insisted that the prohibition by Nebraska law to teach German to students below eighth grade was "an arbitrary

interference with the liberty of parents to control and educate their children.

Epperson v. Arkansas
393 U.S. 97, 89 S. Ct. 266 (1968)

This case was also reviewed earlier in this chapter. Epperson is among the most important cases in support of religious freedom of school students. In the process of teaching, schools must remain neutral in religious matters. Justice Fortas insisted that Arkansas' statute clearly violated First Amendment rights because the statute tended to take sides with a "particular religious doctrine . . ."

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

Facts

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

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 armbands during the Christmas holiday season. School principals became aware of the 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 return to school without 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, through their fathers, 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."⁶¹ "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." Justice Fortas insisted that: "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression . . . our Constitution says we must take this risk . . ."⁶²

Discussion

While the issue of censorship of public school instructional materials was not directly addressed in this case, the legal principles established in this decision are as follows:

⁶¹Tinker v. Des Moines Independent Community School Dist., 393 U.S., p. 503.

⁶²Ibid., p. 508.

1. A symbolic act performed to express certain views is a form of 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 schools.
4. "Neither students nor teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.⁶³
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. "Undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression," maintained Justice Fortas. Recognizing that any departure from the norm might cause some disturbance and/or fear Justice Fortas insisted "our Constitution says we must take this risk." The strength, vigor and independence of American democracy is predicated on "this kind of openness." Material and substantial disruption must be shown before free expression can be prohibited.⁶⁴
7. Finally, Justice Fortas issued a philosophical--legal reminder to school boards, and for purposes of this manuscript, school boards who might be contemplating some form of censorship that:

State-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate.⁶⁵

⁶³Ibid.

⁶⁴Ibid., p. 508.

⁶⁵Ibid., p. 511.

Parducci v. Rutland
316 F. Supp. 352 (M.D. Ala. 1970)

This case was reviewed earlier and it affirms the precedence for the academic freedom of public school teachers.

Minarcini v. Strongsville City School District
384 F. Supp. 698 (N.D. Ohio 1974), aff'd in part,
rev'd in part, 541 F.2d 577 (6th Cir. 1976)

Facts

The parents of five high school students brought action, on behalf of their children, against the Strongsville, Ohio City School District, the school board, and the superintendent. The central issue is that the school board refused to accept the faculty's recommendation to purchase Joseph Heller's Catch 22 and Kurt Vonnegut's God Bless You, Mr. Rosewater for use in the English curriculum and ordered Vonnegut's Cat's Cradle and Heller's Catch 22 to be removed from the library. Plaintiffs claimed constitutional violation of First and Fourteenth Amendment rights because certain novels had been disapproved for classroom use and others had been withdrawn from the school library.

Decision

The District Court with Justice Kanpansky writing the opinion found no constitutional violation. On appeal the Sixth Circuit Court of Appeals with Justice Edwards writing the opinion separated the complaint into two issues: (1) the selection and removal of textbooks; and (2) the removal of library books. The Circuit Court affirmed the District Court's decision upholding the school board's authority to select and remove textbooks. However, Justice Edwards maintained that neither the state

nor the school board is required to establish libraries in schools. Once established a library becomes a privilege that cannot be withdrawn because of political or social tastes of the school board. Justice Edwards further insisted that library books can be removed only for constitutionally allowable reasons. Finally, Justice Edwards determined that withdrawal of library books violated students' First Amendment rights to receive information--"the removal of books from a school library is a much more serious burden upon freedom of classroom discussion than the action found unconstitutional in Tinker. On appeal the Supreme Court refused to review the case.⁶⁶

Decision

A significant factor concerning this decision is the unquestionable extension of First Amendment rights to school children. The decision rejected the indoctrination concept of education in which schools exist in loco parentis. Instead, Justice Edwards supported students' rights within the philosophical context that the school is a "marketplace of ideas." Justice Edwards asserted that removal of library books violated students' constitutional right to know and receive information. Yet, in a contrasting response, Justice Edwards contended that school board action did not significantly hamper teachers' expression.

The Minarcini court did not establish judicial guidelines concerning the equality of rights of children and adults in receiving information. Yet, in jurisdictions where this case has been accepted as precedent, students' rights have been elevated equal to those of adults.

⁶⁶Minarcini v. Strongsville City School District., 541 F.2d p. 584.

Pico v. Board of Education, Island Tree Union Free School
District No. 26, 638 F.2d 404 (2d Cir. 1980)

Facts

This case was brought on appeal from the federal district court (Eastern District, New York) seeking declaratory and injunctive relief from school board actions removing eleven books from junior and senior high school libraries and the curriculum. The eleven books included non-fiction, autobiographies, and anthologies. The federal district court, with Judge George C. Pratt writing the decision, had dismissed the class action complaint. Plaintiffs appealed to the Second Circuit Appeals Court.⁶⁷

Decision

Justice Sifton suggested that school board members "acted because of political motivation and whether books were removed because of their ideas, precluding summary judgement." Thus, the Second Circuit Appeals Court reversed and remanded for trial on the above issues. The board appealed to the United States Supreme Court and on October 12, 1981, the Court agreed to hear the case. It should be noted that the Pico Court was split 2-1 with Justices Sifton and Newman voting the majority and Justice Mansfield writing a dissenting opinion.⁶⁸

Discussion

What are the circumstances that seem to circumvent the well established

⁶⁷ The books are (1) Eldridge Cleaver, Soul on Ice; Alice Childress, A Hero Ain't Nothing But a Sandwich; Bernard Malamud, The Fixer; (Anonymous) Go Ask Alice; Kurt Vonnegut, Jr., Slaughterhouse Five; Langston Hughes (ed.), The Best Short Stories by Negro Writers; Richard Wright, Black Boy; Oliver La Farge, Laughing Boy; Desmond Morris, The Naked Ape; Jerome Archer (ed.), A Reader for Writers; Helen Colton, Our Sexual Evolution.

⁶⁸ Pico v. Board of Education, 638 F.2d, p. 404.

practice of the Second Circuit Appeals Court supporting school boards in censorship activities? Justice Sifton reviewed in absolute detail the questionable publications and juxtaposed the constitutional questions against the Second Circuit Appeals Court's recent elementary and secondary school censorship case history. But more importantly, Justice Sifton juxtaposed school board political and religious activities against constitutional questions. What emerges from Justice Sifton's positions is a clear description of what the school board did, along with their political and religious motivation and views. Justice Sifton's positions spoke so convincingly that their constitutional justification was all but silent, the extent of political and religious motivation mooted explanatory intent.

The record reveals that school board members attended a conference sponsored by the People of New York United, supposedly a conservative organization composed of parents concerned about the organizations and governance of education. A part of the conference focused on textbooks and library books control and an "objectionable" book list. The school board returned home and in time some members began examining the high school library catalog cards determining which of the "objectionable" books were in the high school library.⁶⁹

More weeks elapsed and at the conclusion of the February, 1976 school board meeting the high school principals and junior high principals were asked to remove the books from the library shelves. Three days later the school superintendent protested the banning action:

⁶⁹Speakers at the Conference were from Heritage Foundation, Washington, D. C.; Arizona; and Kanawa County, West Virginia.

My objection to direct action banning all the books. . . is that we don't know who developed the list, nor the criteria they used. I don't believe we should accept and act on someone else's list, unless we first study the books ourselves. . . We already have a policy . . . designed expressly to handle such problems . . . Unilateral banning by the board, without input from the staff, would surely create a furious uproar. . . I don't believe you want such an uproar, and I certainly don't.⁷⁰

The school board rejected the school superintendent's recommendations and again directed that all copies of the library books in question be removed. The public response was shortly underway. The school board responded by suggesting that the Teacher Union leaders were simply "attempting to discredit the Board and win the seats of two union-backed lackeys."⁷¹

The conflict intensified. The school board devoted the entire March issue of the Newsletter to its position--"lies and misinformation which has been spread by the teachers union. . . fighting to keep books in our schools which are offensive to Christians, Jews, Blacks, and all Americans in general."⁷²

In a late March public meeting the school superintendent again protested school board censorship and reminded the board that the union's contract provided that teachers had the right to "introduce and explore controversial material. . . appropriate to grade level."⁷³

⁷⁰ Pico v. Board of Education., 638 F2d., p. 409.

⁷¹ Ibid.

⁷² Ibid., p. 410.

⁷³ Ibid., p. 411.

Again the school superintendent urged that the books be returned to the school libraries. The school board refused the request. In early April, however, the school superintendent and the school board jointly agreed on a book review committee. Throughout April, May, and June the book review committee met on five different occasions and voted to return all books except three to the library shelves.⁷⁴ On July 28, 1976, the school board, in public meeting, rejected the book review committee's recommendations, with two exceptions--voting on each book separately--and directed that nine books be removed from the school libraries and curriculum instruction program. One book was to be returned without restriction and the other book returned with student access conditioned on parent approval.⁷⁵

Finally, one other event surrounding the Pico case must be mentioned. In the middle of the May book banning a school board election was held. Two of the incumbents ran successfully and there is reason to believe that the book banning issue re-elected the incumbent members.

Litigation followed school board censorship in January, 1977. The school board countered with a press release defending the board's action and a survey of school district parents' attitudes toward school board action.⁷⁶

⁷⁴The three books not returned were: Desmond Morris' The Naked Ape; Piri Thomas' Down These Mean Streets; and Eldridge Cleaver's Soul on Ice.

⁷⁵The two books which the school board voted to return were Oliver La Farge's Laughing Boy, and Richard Wright's Black Boy.

⁷⁶Judge Sifton questioned the school board legal counsel's "propriety" in mailing the questionnaire but the attorney defended on reason that the suit was class action.

In early August, 1979, Judge Pratt relying on President's Council found for the school board. Justice Sifton now occupied center stage writing the Second Circuit Court of Appeals majority opinion. Justice Sifton began by recognizing the enormous First Amendment complexities applicable to secondary school children. Justice Sifton examined the major landmark decisions of Tinker, Barnett, Epperson, President's Council, Keyishian, Botitis, and others.

Next, Justice Sifton acknowledged that courts should not interfere with conflicts that occur with the day to day school operation. Yet, something unusual had happened, maintained Justice Sifton:

What we have instead is an unusual and irregular intervention in the school libraries' operation. . . this intervention has occurred under circumstances, including the explanations for their actions . . . which so far from clarifying the scope and intentions behind the official action, create instead grave questions concerning both subjects.⁷⁷

Continuing, Justice Sifton insisted that school board irregular and ambiguous activities created a "prima facie case" which necessitated judicial intervention:

. . . because of the real threat that the school officials' irregular and ambiguous handling of the issue will, even despite the best intentions, create misunderstanding as to the scope of their activities which will serve to suppress freedom of expression.⁷⁸

Judge Sifton insisted that the school board was insensitive to First Amendment issues. Moreover, the school board never provided any forum and/or leadership for a reasonable and open debate concerning books

⁷⁷Pico v. Board of Educ., supra note 53, p. 414.

⁷⁸Ibid., p. 415.

"that are anti-Christian or anti-American ." It seemed, said Justice Sifton, that school board members were less concerned with sanitizing the libraries than in expressing "an official policy with regard to God and country of uncertain and indefinite content which is to be ignored by pupils, librarians, and teachers at their peril."⁷⁹

So the sum totality of school board activities, irrespective of school superintendent advice, was "in a manner calculated to create public uproar" and with the book banning "most of the parents . . . will back us to the hilt and the guarantee of majority support is omnipresent." School board activity with majority support would appear to satisfy the state's compelling interest in education and First Amendment free speech. School board argument is too simplistic in this case at bar.⁸⁰

On the contrary, said Justice Sifton, school board political and religious convolutions created an atmosphere that was more feared than the policy itself:

The erratic, unfair and arbitrary administration of policy with regard to speech in schools is as much to be feared as the contents of the policy itself as a source of First Amendment violations.⁸¹

Finally, Justice Sifton, in dismissing the school board's remaining assertion--the school board had suggested that was "substantial and

⁷⁹ Ibid., p. 416.

⁸⁰ Ibid.

⁸¹ Ibid., p. 417.

material" for its activities and that all decisions were "possessed of sufficient, procedural regularity" -- insisted that such pleadings "were simply pretexts for the suppression of free speech." "The school board," maintained Justice Sifton, really never had children's interest at hand but were interested in "establishing those views as the correct and orthodox ones for all purposes in the particular community." "Thus," said Justice Sifton, "this case fails First Amendment free speech muster on the following:"(1) the children's welfare and education were never the real issues for book removal; (2) the school board's reasons for book removal were "confusion" and incoherence"; (3) school board's informal and dilatory manner and method of procedure; (4) the ex post facto appointment of a book review committee and then ignoring the committee's recommendations; (5) strong professional opposition; and (6) "substantive irregularities . . . of reviewing works by such generally recognized authors as Swift, the late Richard Wright, and Bernard Malamud, whose book, The Fixer, was, indeed, an assigned high school reading text." As already indicated the Supreme Court on October 12, 1982, agreed to hear the school board's appeal.⁸²

Board of Education, Island Tree
Union Free School District
No. 26 v. Pico

Case No. 80-2043, 50 L.W. 4831 (1982)

⁸² Ibid.. p. 418.

Discussion

Justice Brennan, writing for the plurality, began his consideration of Pico by acknowledging the limited issue before the Court. This case, maintained Justice Brennan, involved no curriculum issues, no textbook or any other books with assigned readings, and no classroom intrusion. The constitutional questions did not involve the acquisition of books-- "We emphasize at the outset the limited nature of the substantive question presented by the case before us." "Thus," acknowledged Justice Brennan, "the only issues in this case are library books and the suppression of ideas. Moreover, the issue both substantively and procedurally raises only two questions," maintained Justice Brennan. "Question one: Does the First Amendment impose any limitations on school board's discretion to remove a book from the library? Question Two: If the answer to question one is yes then does the evidence indicate that the school board exceeded those limitations?"⁸³

With the appropriate issues delineated, Justice Brennan proceeded with the response. A brief review of major Supreme Court decisions concerning students' rights was presented--Meyer, Pierce, Epperson, Tinker, Barnette, and Keyishian to mention just a few. Justice Brennan suggested that these precedents focused "not only on the role of the First Amendment in fostering individual self-expression but also on its

⁸³ Board of Education v. Pico, 50 L.W., pp. 4833-4836.

role in affording the public access to discussion, debate, and the dissemination of information and ideas. "Moreover," suggested Justice Brennan, "the Court has on many occasions insisted that the Constitution protects the right to receive information and ideas. The right to receive information is derived from free speech and press and encapsulates First Amendment rights for the sender to distribute literature and the right to receive such literature." Justice Brennan continues the homily, "Logically the disseminations of information and ideas mean nothing if there is no one to receive them. A school library establishes an environment where the sender and receiver are juxtaposed under First Amendment free speech and press." Justice Brennan elaborates that the right to receive ideas is a necessary predicate to the recipient's meaningful exercise of his own rights of speech, press, and political freedom. School children not only have the right to First Amendment self-expression but they also have the First Amendment right to receive information and ideas. Justice Brennan acknowledged that all First Amendment student rights must be construed in light of the special characteristics of the school environment. Student First Amendment rights, then are conditional.⁸⁴

With the historical review completed and judicial philosophical underpinning established, Justice Brennan proceeds to answer the first question. Justice Brennan insists, "The special characteristics of the school make that environment especially appropriate for the recognition

⁸⁴Ibid., p. 4835.

of the first Amendment rights of students." Justice Brennan described the school library as "a place dedicated to knowledge, quiet, beauty, . . . the principal locus of . . . freedom and a place where students voluntarily participate in self-education." 85

The school board has relied on the basic supposition that they had absolute "unfettered discretion to transmit community values throughout the school system." Justice Brennan suggested that school board claim might be applicable to compulsory curriculum matters in the classroom but misplaced where "as in the school library voluntary inquiry . . . holds sway." Justice Brennan acknowledged that school boards do have a "substantial legitimate role to play in the determination of the school library content; however, "that discretion may not be exercised in a narrow partisan or political manner." Justice Brennan once again affirmed that "Our Constitution does not permit the official suppression of ideas" and/or encourage "officially prescribed orthodoxy."86

Thus insisted Justice Brennan:

We hold that local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to "prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion."87

⁸⁵Ibid., pp. 4835-36.

⁸⁶Ibid.

⁸⁷Ibid.

With the answer to the first question fundamentally established, Justice Brennan proceeded to the next question concerning evidentiary materials before the District Court. "We conclude that the materials do raise such a question" insisted Justice Brennan. First, the school board had no "established regular and facially unbiased procedure for the review of controversial materials." Second, the school board ignored the advice of the professional staff. Third, that while school board initially defended their action on grounds that the books contained "obscenities, blasphemies, and perversion beyond description," one removed book contained no such language. Fourth, books singled out were on the PONYU hit list and as such the school board never conducted an independent review of library books. "Thus," concluded Justice Brennan, "petitioners' removal procedures were highly irregular and ad hoc--the antithesis of those procedures that might tend to allay suspicions regarding petitioners' motivations."⁸⁸

Justice Blackmun concurring in the judgement and concurring in part presented a somewhat different First Amendment perspective. Justice Blackmun rejected the motion that school libraries and the right to receive information was the constitutional centerpiece in this case at bar. Instead, Justice Blackmun suggested that certain forms of state discrimination between ideas are improper. Justice Blackmun proceeds to

⁸⁸Ibid.

describe the issue as striking the proper balance between state authority "to regulate education" and First Amendment constitutional restriction. "As such," insisted Justice Blackmun, "we must reconcile the schools' inculcative function with the First Amendment bar on 'prescription of orthodoxy.'" ⁸⁹ And in Justice Blackmun's view that proper balance is achieved as such:

That school officials may not remove books for the purpose of restricting access to the political ideas or social perspectives discussed in them, when that action is motivated simply by the officials' disapproval of the ideas involved.⁹⁰

Justice White, while concurring in the judgement, saw no "necessity at this point for discussing the extent to which the First Amendment limits the school board's discretion to remove books from the school libraries." ⁹¹

Chief Justice Burger, with whom Justices Powell, Rehnquist, and O'Connor joined, wrote a biting dissenting opinion. Justice Burger proceeded issue by issue rebutting Justice Brennan's position and insisted that school boards not federal judges should make decisions concerning library book selection. "Ultimately," insisted Justice Burger, "the federal courts will be the judge of whether the motivation for book removal was valid or reasonable." Justice Burger voiced his belief,

⁸⁹Ibid.

⁹⁰Ibid.

⁹¹Ibid., p. 4832

"Local control of education involved democracy in a microcosm." School boards are elected by the people and are subject to parent influence and often control and as such are accountable for board actions. "What you have," insisted Justice Burger, "is the necessary check on school board's discretion by the constituency who could remove them from office in the next election." Justice Burger suggested finally, "Even if parents and students are unsuccessful in convincing the school board of the inappropriateness of book removal, they have alternative sources. . . . Books may be acquired from book stores, public libraries, or other alternative sources."⁹²

The Supreme Court is divided on public school censorship issues. The Pico majority decision is, however, a much stronger opinion than first glance indicates. Four justices in the Pico majority worry about school board policy predicated on personal, political and religious ideological preferences. Justice White, the other member of the Pico majority, was concerned at least to the extent that he said, "I am not inclined to disagree with the Court of Appeals on such a fact-bound issue." He has deferred his opinion until another day "When the findings of fact and conclusions of law are made by the District Court." The four justices in the Pico minority would allow greater latitude for school boards in library material selection and removal. Such reasoning is grounded in the local mores and views of the community predilection, "elected

⁹²Ibid., p. 4842.

officials express the views of their community." So the judicial philosophy for both majority and minority is established. Perhaps Justice White will determine the Court's majority identity in future cases. Justice Burger voiced a prediction for the future by stating, "Ultimately, the federal courts will be the judge of whether the motivation for book removal was 'valid' or 'reasonable'." ⁹³

Equal Educational Opportunity

Overview

Since Brown v. Board of Education was the most far-reaching landmark decision regarding the constitutionality of public school segregation, it is referred to in almost every court decision related to discrimination or denial of equal educational opportunities. Tinker v. Des Moines, reviewed earlier in this chapter, was the leader among United States Supreme Court cases advocating individual student and teacher rights and used the test of "reasonableness." Mills v. Board of Education was a landmark case in calling attention to the need to educate the handicapped. San Antonio Independent School District v. Rodriguez made the statement that education was one of the "fundamental rights" belonging to the individual states. Lau v. Nichols ruled that the rights of Chinese speaking students not receiving remedial English were violated. The Lau case has already been reviewed in this chapter.

⁹³Ibid., pp. 4840-4841.

The only additional point to be made here is that in the wake of the United States Supreme Court's decision in Lau v. Nichols, several states enacted laws mandating bilingual education programs.

Brown v. Board of Education
347 U. S. 483 (1954)

Facts

Several cases which had their origins in state or district federal courts involving the issue of racially segregated public schools were grouped together on appeal because of the common legal questions. The United States Supreme Court handed down its consolidated opinion on May 17, 1954.

The major constitutional issues examined in this case were as follows:

(1) Whether state and local school systems could maintain separate school organizational plans for white and black students if facilities, programs, and personnel were equal.

(2) Whether segregation laws in the public schools according to race, could possibly be violating the equal protection of the laws guaranteed by the Fourteenth Amendment to the Constitution.

(3) Whether segregation of children in public schools solely on the basis of race, even though the physical facilities and other factors may be equal, deprive the children of the minority group of equal educational opportunities.⁹⁴

⁹⁴Brown v. Board of Education, 347 U.S. 485 (1954).

Decision

The Supreme Court ruled that forced segregation of students was a denial of the equal protection of the laws guaranteed by the Fourteenth Amendment and the doctrine of "separate but equal" had no place in the field of public education. Public schools were instructed to be "color-blind" in their dealings with students and to make equal opportunity for education available to all students. The various cases that were consolidated into this one opinion were remanded to the District Courts with particular instructions to require the school boards to begin admitting students to schools on a nondiscriminatory basis with all deliberate speed. Chief Justice Warren delivered the 9-0 opinion.

Discussion

This decision is considered by most educators to have been the most important decision handed down by the United States Supreme Court in the area of public education. As a time reference, educational issues often are discussed in terms of pre- and post-Brown. "Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity."⁹⁵ Many facets of public education have been redesigned by the decision in this case. Numerous academic debates, board of education policies, state and federal laws have had as their origin the decision in the Brown case.

⁹⁵Ibid.

Many court decisions in the areas of testing, ability grouping, and classification of students are based on legal precedents established by the Brown case.

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

Tinker has been reviewed earlier in the chapter. It suffices to point out that Tinker helped to establish the concept of reasonableness as it relates to student and teacher rights. The courts refused to consider whether such a practice was wise or expedient but asked only if it was a reasonable exercise of the power and discretion of the school authorities.

Mills v. Board of Education
United States District Court
348 F. Supp. 866 (D.D.C. 1972)

Facts

A civil action suit was brought on behalf of seven children, Peter Mills and others by their parents in which they challenged exclusionary practices which had resulted in nearly 18,000 handicapped children in the District of Columbia Public Schools going without a public education in 1972-73. The plaintiffs asked that the defendants be compelled to provide the handicapped children with immediate and adequate educational facilities in the public schools or alternative placement at public expense. Parents claimed that denial of education violated the constitutional right of due process.

Decision

It was ordered, adjudged and decreed that summary judgment in favor of plaintiffs and against defendants be granted as follows:

1. Provide adequate alternative educational services for all children between the ages of 7 and 16.
2. Provide hearing and periodic review of child's status, progress and adequacy of educational alternative.
3. Provide each child of school age a free education.
4. Plaintiffs were to be provided services within 30 days of the judgment.

The federal district court held that the equal protection was implicit in the Due Process Clause of the Fifth Amendment.

Discussion

The plaintiffs allege that although the seven children can profit from an education either in regular classrooms with supportive services or in special classes adopted to their needs, they have been labelled as behavioral problems, mentally retarded, emotionally disturbed or hyperactive, and denied admission to the public schools or excluded therefrom after admission, with no provision for alternative educational placement or periodic review.

Although all of the named minor plaintiffs were identified as Negroes the class they represented was not limited by their race. They brought suit on behalf of all other District of Columbia residents of school age who had been excluded or deprived of a public education by the defendants.

In answer to the school district's financial concerns, the court

bluntly stated that "If sufficient funds are not available to finance all of the services and programs that are needed and desirable in the system, then the available funds must be expended equitable in such a manner that no child is entirely excluded from a publicly supported education. . ."⁹⁶

Under the District of Columbia Code, Section 31-203 a child may be excused from attendance only when:

. . .upon examination ordered by . . . (the Board of Education of the District of Columbia), (the child) is found to be unable mentally or physically to profit from attendance at school: Provided however, that if such examination shows that such child may benefit from specialized instruction adapted to his needs, he shall attend upon such instruction.⁹⁷

San Antonio Independent School
District v. Rodriguez
411 U. S. 1 (1973)

Facts

Mexican-American parents whose children attended elementary and secondary schools in the Edgewood Independent School District in San Antonio that had a low property-tax base brought suit attacking the Texas system of financing public education. The growing disparities between districts in population and taxable property were responsible in part for the increasingly notable difference in levels of local expenditure for education. Named as defendants were the State Board of Education, the Commissioner of Education, the State Attorney General, and the Bexar County Board of Trustees.

⁹⁶District of Columbia Code. Section 31-203. 866 (D.D.C. 1972)

⁹⁷Ibid.

Decision

In December, 1971, the district court rendered its judgment in an opinion holding the Texas school finance system unconstitutional under the Equal Protection Clause of the Fourteenth Amendment. The state appealed and the Supreme Court reversed the decision. It was determined that the state's system of financing public education did not infringe on a fundamental right explicitly or implicitly protected by the Constitution. The vote was 5-4.

Discussion

Until recent times, Texas was a predominantly rural state and its population and wealth were spread relatively evenly across the state. As rural-to-urban population shifts became more pronounced the location of commercial and industrial property began to play a significant role in determining the amount of tax resources available to each school district. These growing disparities in population and taxable property between districts were responsible in part for increasingly notable differences in levels of local expenditure for education.

Justice Powell delivered the opinion of the court:

For these two reasons--the absence of any evidence that the financing system discriminates against any definable category of "poor" people or that it results in the absolute deprivation of education--the disadvantaged class is not susceptible of identification in traditional terms. . . We thus conclude that the Texas system does not operate to the peculiar disadvantage of any suspect class.⁹⁸

Concerning the question whether education is a fundamental right in the constitutional sense, the Court stated that the key to "fundamental" is

⁹⁸San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).

not to be found in "comparisons of the relative societal significance of education as opposed to subsistence or housing" or "weighing whether education is as important as the right to travel." The answer lies in assessing whether there is a right to education explicitly guaranteed by the Constitution." The court found there was no such right and referred to the need for expertise and deliberation in deciding matters of educational finance and expressed concern about the consequences of a court ordered change at the present time. The Court declared, "The ultimate solutions must come from the lawmakers and from the democratic pressures of those who elect them."⁹⁹

Thus the basic decisions regarding financing the public schools remain with the individual states under their respective constitutions. Since this Supreme Court decision a number of states are examining the equality of education through financial expenditures.

Lau v. Nichols
94 S. Ct. 786 (1974)

Lau v. Nichols has already been reviewed in this chapter. The only additional point to be made here is that in the wake of the United States Supreme Court's decision in Lau v. Nichols, several states enacted laws mandating bilingual education programs. It appears that the plaintiff's plea for "relief against the unequal educational opportunities. . ." had been heard.¹⁰⁰

⁹⁹Lau v. Nichols, 94 S. Ct. 786 (1974).

¹⁰⁰Ibid.

Chapter VI

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Throughout the history of American public education, curriculum has been a continuous issue for school boards, school administrators, and teachers. Based on an analysis of research presented in this study, it is apparent that curriculum in the public schools is a growing concern. Moreover, any level of public education may be confronted with controversy concerning matters involving curricula.

Prevailing social, economic, political, moral, and religious trends which influence community pressures on schools may lead to a curriculum controversy. The complainant may be a parent, a member of the community, a local or national organization, a student, a teacher, a librarian, a principal, a superintendent, or sometimes a school board. The curriculum issue may or may not be settled to the satisfaction of the complainant. As the school board appeals process is exhausted, resolution may require litigation.

Curriculum issues involve major constitutional questions related directly or indirectly to such educational issues as determination of subject matter in the public schools, methods of instruction in the schools, religious education in the curriculum, censorship of materials and equal educational opportunities within the curriculum.

School officials should have access to updated, appropriate information concerning both the educational and legal issues related to

curriculum in order to make sound educational and legal decisions. The comprehensive summaries of recent studies regarding curriculum and identification of potentially litigious educational issues provided by this research will assist school officials in making sound educational decisions where curriculum is concerned.

Summary

The introductory material in Chapter I identified the historical fact that curriculum, or what shall be taught in the public schools, is an ancient problem. Public schools have been faced with more curriculum problems and litigation concerning curriculum in the past three decades than ever before in the history of the United States. The current political, social, and moral climate is central to understanding the basis for curriculum issues in the public schools. Citizens' dissatisfaction with forced desegregation, busing, taxes, foreign policy, and government in general has caused them to strike out at public schools. Schools are fragile, vulnerable, accessible institutions which make them an easier target than federal, state, or local governments. Well organized groups, some conservative, some liberal, have high expectations of what can be achieved through the schools. Because of these expectations, criticism of the schools tends to be sustained and varied and often leads to litigation.

The review of literature in Chapter II included an historical perspective in order to give the reader background and an overview of the subject. Chapter III presented an analysis of the 50 state statutory curricular mandates. Chapter IV and Chapter V looked at the major legal issues and provided an analysis of the landmark court decisions

related to public school curriculum.

As a guide to the educational and legal research, several questions were formulated and listed in Chapter I of this study. While the review of the literature provided answers to some of these questions, most of the answers were contained in Chapters 3, 4, and 5. The answers to these questions comprise the major portion of a set of legal guidelines which school administrators and other educational decision makers can refer to when making decisions related to curriculum issues.

The first guide question listed in Chapter I was: What governmental bodies prescribe curriculum in the public schools?

Except for constitutional restraints, the state legislature has plenary power over the curriculum of the public schools. Some of the power of state legislatures is delegated to local school boards. The Constitution of the United States is the basic law of the land. The Constitution covers a wide area of powers, duties, and limitations, but at no point does it refer to education. Education, including prescription of public school curriculum therefore, becomes a state function under the Tenth Amendment which provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Thus, as the United States grew, and the population increased, individual states assumed complete authority to provide public education for children, only restricted in action by the provisions of the United States Constitution and by the subsequent acts of that state's legislature.

Every state has certain statutory prescriptions related to the

curriculum of the public schools. These laws cover certain things that must be taught in the schools and in some instances directions as to how they should be taught. Sometimes there are prohibitions against teaching certain matters. An indispensable function of the curriculum of the public schools is to educate for good citizenship and decision-making skills. State legislatures may require those subjects to be studied which are plainly essential to good citizenship. The authority of local school boards to offer curriculum courses beyond those mandated by the state rests on the basis of implied delegated powers.

The second guide question posed in Chapter I was, "To what extent do pressure groups influence curriculum legislation and implementation?"

The main group to bring pressure in curriculum matters is parents. School administrators, school boards and teachers also become involved when parent and community pressure is brought to focus on them. Many parents who challenge curriculum assume the role as challenger from genuine personal concern based on moral, religious, political and social convictions. Others are influenced by national and local special interest groups formed for the explicit purpose of attacking controversial topics. Local school board meetings are frequently opportunities for indignant citizens to express themselves. These meetings range from orderly forums to shouting matches. Protesting groups send out information regarding school programs such as book censoring, family life and sex education curricula, humanities programs, the theory of evolution, and values clarification.

Pressure groups strongly influence curriculum legislation and are instrumental in the implementation of the legislation. For example,

some recent court decisions evolved primarily because of parent pressure groups. Lau v. Nichols implemented special programs for non-English-speaking students. Cases such as Mills v. Board of Education guaranteeing mentally retarded children a right to education have accorded parents the opportunity to challenge not only the placement of children in special programs but also the adequacy of the particular curriculum made available in these programs. In the decades of the eighties ultraconservative groups frequently blend fundamentalist religion and political conservatism into a working personal philosophy as was demonstrated in Pico.

Although the public schools are the legal creations of the states and the states have the authority to prescribe curriculum to preserve the economic, political, and cultural values of society, the inconsistent and heterogeneous legislated curriculum patterns between the states is a product of local and state pressure groups.

The third question listed in Chapter I was, "What are the elementary and secondary curriculum requirements established by legislative enactments of the fifty states?"

Practically every state has enacted legislation requiring certain subject matters to be included in the public school curriculum. Provisions can be found that prescribe instruction in a variety of subjects including United States Constitution, American history, drug education, reading and math. An analysis of the 50 state curriculum requirements revealed that Iowa and California had the greatest number of legislated subjects (43 and 35 respectively). Twenty-one states had 20 or more state legislated subjects and 14 states had 10 or fewer mandated subjects.

Chapter III of this study detailed the requirements on the 50 states. Most of the statutes pertaining to curriculum and its administration are rather general with authority delegated to local boards or professional school personnel to determine the specifics.

Table 5 in Chapter III shows a state by state listing of the number of curricular mandates required in each state in the United States. No states have identical legislated subject requirements. Usually state legislatures provide only the barest directives in the statutes, seldom going beyond listing broad curriculum areas. The content and emphasis of instruction has usually been left to professional educators in state departments and local districts.

The fourth guide question from Chapter 1 concerns, "How has the increase of federal legislative enactments influenced public school education?"

Beginning around 1950 and continuing to the present, the federal courts, particularly the Supreme Court, recognized that educational policies and practices as they had developed under state laws and state court decisions were not in conformity with federal constitutional requirements.

One could conclude from the Brown decision and subsequent cases that the Supreme Court has adopted an activist posture toward education. For the past generation, no goal has been more important to public school educational policy makers than expanding educational opportunity for all youth. When this tendency of the Court to involve itself with educational matters became visible, Supreme Court Justices Jackson, Black and Harlan warned about the possible problems of the Supreme Court becoming a "super

schoolboard." Other members of the supreme Court have obviously felt otherwise, as the trend in decisions clearly shows.

As the federal government increased regulations for public education, the courts have become more and more involved in school curriculum issues. Generally, there have been problems that relate to basic rights set forth in the First and Fourteenth Amendments to the United States Constitution and to provisions in state constitutions. These problems can be roughly classified as matters pertaining to race, distribution of wealth to schools, and individual freedoms. The main interest of the courts has been to enforce minimum constitutional requirements and ensure at least a minimally adequate public school curriculum for all students.

Educators, school administrators and school boards must be aware of the fact that litigation can occur at any time when the federal courts and particularly the Supreme Court recognize that certain policies and procedures pertaining to curriculum fail to meet constitutional requirements of the First and Fourteenth Amendment.

The fifth guide question from Chapter I was, "What public educational issues are most likely to be litigated?"

The majority of court cases involving issues related to public school curriculum have been associated with the First and/or the Fourteenth Amendments.

In 1923 the Supreme Court made its initial ruling concerning public school curriculum when it was held in a Nebraska foreign language case that a state legislative act prohibiting the teaching in any language other than English was in violation of the Fourteenth Amendment,

and therefore, unconstitutional.

Decisions have been handed down by various courts within recent years regarding a number of constitutional questions related directly or indirectly to such educational issues as the determination of particular subjects, methodology in the school program, religious education, censorship of materials, and equal opportunity to curricular areas. Constitutional questions involved in these cases include religious freedom, parent rights, student rights, academic freedom, racial discrimination, denial of due process, denial of equal protection of the law, and denial of equal educational opportunities.

The sixth guide question from Chapter I was, "Based upon results of recent court cases, what possible effects will these court decisions have on school boards and school administrators?"

School boards and school administrators will be more cautious, as they make decisions concerning the organization, administration, and programs of the public schools. The school authorities realize that there is a tendency for the federal and state courts to expand the scope of their powers over the schools. The school authorities are cognizant of the fact that the courts will maintain jurisdiction over cases until their mandates, orders, and decrees have been carried into effect. It is thus clear that a new judicial function is taking place.

The seventh guide question from Chapter I was, "Based on judicial analysis, what are the trends and developments in public school curriculum?"

A new judicial function has emerged; it involves supervision of the public schools and the curriculum to assure that constitutional

minima required by the First and Fourteenth Amendment are met.

One need only compare the extent of court involvement in education in the 1940s with court involvement in the schools as it existed in 1984 to appreciate the significant change that has occurred. The roots of this new judicial function can be traced back to the 1950s, when erosion of the classical view of education as exclusively a state and local function began and when the federal courts, particularly the Supreme Court, recognized that certain policies and procedures related to public school curriculum failed to meet constitutional requirements of the First and Fourteenth Amendment.

The basic changes taking place in judicial thinking about the role of the courts in education are shown by cases that have been concerned with these and other issues:

The power of courts to enforce student and teachers rights.

The power of courts to require special programs for the handicapped.

The power of courts to require levying of taxes for support of schools.

The power of courts to reassign students to achieve racial balance.

Conclusions

Even when legal issues appear to be similar and/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. Based on an analysis of judicial decisions, however, the following general conclusions can be made concerning the legal aspects of curriculum in the public schools:

1. Parents' rights to determine the course of education of their children in the public schools as opposed to school board authority or teacher judgment to prescribe curricula is likely to continue to be litigated.

2. The courts have consistently upheld the right of the state legislature to specify certain subject matter for all children.

3. Even though parents, school boards, and legislatures are in disagreement on the issue, courts are consistent in ruling that school boards possess considerable discretionary authority in maintaining that sex education be incorporated in the curriculum.

4. The determination of the procedure and the management and direction of pupils and studies rests in the discretion of the school board and is not subject to the supervision of the court.

5. Students may not be punished by expulsion or corporal punishment for failure to participate in a particular course activity if the parent submits a written request for the student to be excluded.

6. It is unconstitutional to read Bible verses as a devotion or to further a religion. Secular study of the Bible as literature is constitutionally acceptable.

7. Prayer in the public schools has been ruled unconstitutional unless the prayer is silent and private.

8. It is constitutional to release school students from public school attendance to attend religious classes off of the school premises. It is unconstitutional to release students for on campus religious instruction.

9. In regard to curricula and books in school libraries, the question of what rights students have to receive information and what rights a community has in determining what information is taught and available in the schools is one that will continue to be litigated.

10. School boards' authority to select and to remove library and instructional materials, as opposed to the selection of the same materials, will continue to be a legal issue in the courts.

11. Determining what is a constitutionally protected right will continue to be a legal issue for the courts to decide.

12. In classifications based on sex, race, or handicaps, the courts will continue to scrutinize closely any rules or laws that tend to discriminate against equal educational opportunities.

Recommendations

The stated purpose of this study was to provide school boards, public school administrators and public school teachers with appropriate information regarding the legal aspects of public school curriculum. This information is necessary in order that educational decision makers will be able to make decisions regarding curriculum issues that are both educationally and legally sound.

The current social, political and religious climate seems to point toward a trend for continued examination and criticism of the public school curriculum. Capable, skilled educational leadership will be required to gain community support and to withstand pressure from a variety of citizens including local and national organizations. In a

democracy citizens have the right to express views and raise important questions concerning public education. Educators must develop organizational and administrative activities that will keep the public informed about schooling and generate public support.

Educators should continue to be informed and keep up to date with respect to constitutional issues and legal developments affecting schools. Lack of knowledge will no longer be accepted as a legal excuse for having violated a student's constitutional rights, nor for escaping the personal consequences of such a violation. In order to ensure that the constitutional rights of teachers, students, school employees and parents are protected, school boards should formulate and adopt a written plan to be followed when and if such practices are initiated. Any complaints concerning instructional materials should be handled in the same manner.

Based on the results of this study, the following guidelines concerning public school curriculum have been formulated. These guidelines are based on the legal principles established by the United States Supreme Court landmark decisions and on discernible trends revealed by the numerous federal court decisions in cases related to these practices.

While these criteria appear to be legally acceptable to follow, school officials need to remember that individuals who feel their constitutional rights have been abridged may still initiate judicial grievances.

Guidelines for Public School Curriculum

School boards and school administrators should:

1. Continually identify curriculum needs and problems by unbiased

methods involving educators and parents of different as well as like interests and backgrounds.

2. Define curriculum goals and objectives at several levels of decision-making using procedures that elicit the trust and cooperation of participants.

3. Protect a school climate in which intellectual freedom can reign and at the same time recognize the parents' rights in a free society.

4. Be aware that public schools may neither advance nor inhibit religion. Any ideas or concepts that seem to stem from a religious point of view must be justified for inclusion in the curriculum on the basis that they advance students' knowledge of society's cultural and religious heritage in a historical framework.

5. Understand that sex education courses frequently provoke controversy. Participation in sex education or other potentially controversial courses should be voluntary. In planning the course, parents should be involved.

6. Observe legal principles in drawing up guidelines concerning the selection and withdrawal of instructional materials and library materials.

7. Draw up procedures for reconsideration of materials and for handling complaints. These procedures should apply equally to all complaints whether they be from school personnel, parents, students or community.

8. Inform parents that all pupil groupings are directly related to the objectives of the instructional program. Teachers and principals responsible for the implementation of the instructional program should understand and be able to articulate this relationship.

9. Insure that all pupil groupings be based on nondiscriminatory,

objective standards which are directly related to the objectives and purposes of grouping. (Example: Use California Achievement Test (CAT) reading scores to determine remedial reading students).

10. Advance the idea that the central purpose of the public school curriculum is the development of children's knowledge and character.

Recommendations for Future Study

Legislators, school boards and governors in nearly all the states have taken steps to improve curriculum in the public schools during the eighties. Based on the results of this study The Legal Aspects of Public School Curriculum, there are several recommendations for those who wish to continue the study. These recommendations of topics are listed below:

1. Social Change and Public School Curriculum. The rising educational level of the populace, the changing roles of women, early retirement, civil rights, increased leisure time, changing family structure, and changing values have made an impact on the curriculum. What are the implications of various societal changes on the curriculum?

2. Technological Change and Public School Curriculum. Keeping up with new knowledge is a problem for educators. Technological changes are so fast and powerful that they wipe out entire industries and create new ones in a single decade. Instead of parents passing on what they have learned to their children, children today must learn lessons never known by their parents. Are schools changing curriculum to meet this challenge of the present and future? What provisions have been made for technological changes by different states?

3. Competency Testing and Public School Curriculum. Data published by several states indicates that competency tests are producing gains in student achievement. The political context that spawned competency testing was the accountability movement. The fact that results of mandated state tests are being published makes the public more aware of the results of different schools. A study of what each state has done with competency testing and minimum competency would prove interesting and useful.

4. Effective Schooling and Public School Curriculum. What are the determinants of achievement? Some studies have disproved the 1966 Coleman report which showed that low achievement by poor children was an inherent characteristic of the poor. Numerous studies support these conclusions: High achievement is associated with the principal as the instructional leader; high teacher expectation; good learning climate; strong emphasis on reading and math; careful monitoring of student progress; and emphasis on time-on-task. Looking at what each state considers to be determinants of achievement and the correlation to curriculum would be of interest to school officials and educators.

BIBLIOGRAPHY

A. PRIMARY SOURCES

1. Table of Cases

Acorn Auto Driving School v. Board of Education, 187 NE (2d) 722 (Ill, 1963).

Associated Schools of Independent School Dist. No. 63 v. School Dist. No. 83, 122 Minn 254, 142 NW 325 (1913).

Alexander v. Phillips, 31 Ariz. 503, 254 Pac 1056 (1927).

Board of Education v. Pico, Case No. 80-2043, 50 L.W. 4831 (1982).

Board of Education of Sycamore ex rel. Wickham v. State, 80 Ohio St. 133, 88 NE 412 (1909).

Board of Education of Topeka v. Welch, 51 Kan 792, 33 Pac 654 (1893).

Brown v. Board of Education, 347 U.S. 495 (1954).

Clemmer v. U.S.D. 501, No. 112, 064, District Court of Shawnee County (Kansas, 1969).

Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930).

Cornwall v. State Board of Education (Ind), 428 F(2d) 471, 472 (1970).

DeSpain v. DeKalb County Community School District, 384 F.2d 836 (7 Cir 1967), cert. den. 390 U.S. 906, 88 S.Ct. 815, 19 L.Ed 2d 873 (1968).

Doremus v. Board of Education, 5NJ 435, 75 A(2d) 880 (1950).

Doremus v. Board of Education, 342 U.S. 429, 72 S.Ct. 394, 96 L.Ed 475 (1952)

Engel v. Vitale, 191 NYS (2d) 453 (1959).

Engel v. Vitale, 370 U.S. 421 82 S.Ct. 1261, 8 LEd (2d) 601 (1962).

Epperson v. Arkansas, 393 U.S. 97, 21 LEd(2d) 228, 89 S.Ct. 266, 272 (1968).

Everson v. Board of Education, 330 U.S. 1.

Follett v. Sheldon, 144 N.E. 867 (Ind., 1924).

Galloway v. School District of Borough of Prospect Park, 331 Pa. 48, 200 Att. 99 (1938).

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

Guernsey v. Pitkin, 32 Vt. 224, 76 Am Dec 171 (1859).

Hardwick v. Board of School Trustees of Fruitridge School District, 54 Cal App 696, 205 Pac 49 (1921).

Illinois ex rel. McCollum v. Board of Education District No. 71, 333 U.S. 203, 68 S.Ct. 461, 92 LEd 648 (1948).

Isquith v. Levitt, 285 App Div 833, 137 NYS (2d) 497 (1955).

Keefe v. Geanakos, 305 F. Supp. 1091 (D. Mass.), 418 F.2d 359 (1st Cir. 1969).

Lau v. Nichols, 414 U.S. 563, 94 S.Ct. 786, 39 L.Ed. 2d 1 (1974).

Leeper v. State of Tennessee, 103 Tenn. 500, 53 S.W. 962 (1899).

McCollum v. Board of Education (Ill.), 333 U.S. 203, 92 LEd 648, 68 S.Ct. 461 (1948).

Madeiras v. Kiyosaki (Hawaii), 478 P (2d) 314, 315 (1970).

McLean v. Arkansas Board of Education, 529 F. Supp. 1255 (E.D. Ark.1982).

Mercer v. Michigan State Board of Education, 379 F. Supp. 580 (E.D. Mich. 1974), cert. den. 419 U.S. 1081, 95 S.Ct: 673, 42 L.Ed. 2d 678 (1974).

Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 E.Ed. 1042 (1923).

Miller v. California, 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed. 2d 419 (1973).

Mills v. Board of Education, 348 F. Supp. 866 (D.C.D.C. 1972).

Minarchini v. Strongsville City School District, 384 F. Supp. 698 (N.C. Ohio 1974), aff'd in part, rev'd in part, 541 F.2d 577 (6th Cir. 1976).

Mitchell v. McCall, 143 S. (2d) 629 (Ala, 1962).

Murray v. Curlett, 228 Md 239, 179 A(2d) 698 (1962).

Myers Publishing Company v. White River School Township, 28 Ind App 91, 62 NE 66 (1901).

- P.A.R.C. v. Pennsylvania, 334 F. Supp. 1257 (E.D. Pa., 1972).
- Pico v. Board of Education, 474 F. Supp. 387 (E.D.N.Y. 1979) rev'd and remanded, 638 F.2d 404 (2d Cir. 1980).
- Parducci v. Rutland, 316 F. Supp. 352 (M.C. Ala. 1970).
- Posey v. Board of Education, 199 N.C. 306, 154 S.E. 393 1930.
- President's Council, District 25 v. Community School Board No. 25, 457 F.2d (2d.Cir.), cert. denied, 409 U.S. 998 (1972).
- Rosenburg v. Board of Education of New York City, 196 Misc. 542, 92 NYS (2d) 344 (1949).
- Samuel Benedict Memorial School v. Bradford, 111 Ga 801, 36 SE 920 (1900).
- San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973).
- Schempp v. School District, Abington Township, Pennsylvania v. Schempp, 374 U.S. 203, 83 S.Ct. 1560, 10 LEd (2d) 844 (1963).
- School District of Borough of Falls Creek v. School District of Washington Township, 114 PaSuper, 174 atl 634 (1934).
- Security National Bank of Mason City v. Bagley, 202 Iowa 701, 210 NW 947 (1926).
- Serna v. Portale Municipal Schools, 499 F.3d 1147 (10 Cir. 1974).
- Scopes v. Tennessee, 154 Tenn 105 289 S.W. 363 (1917).
- State ex. rel. Andrews v. Webber, 108 Ind. 31, 8 NE 703 (1886).
- State ex rel. Clark v. Haworth, 122 Ind. 23 NE 946 (1890).
- State ex. rel. Kelly v. Ferguson, 95 Neb 63, 144 NW 1039 (1914).
- State ex. rel. Moore v. Millsap, 130 MoApp 683, 108 SW 1133 (1908).
- State ex rel. Rogers v. Board of Education of Lewis County, 125 WVa 579, 25 SE (2d) 537 (1943).
- State ex rel. Sheibley v. School District No. 1 of Dixon County, 31 Neb. 532, 48 NW 393 (1891).
- State v. Avoyelles Parish School Board, 147 5(2d) 729 (La, 1962).
- Stein v. Oshinsky, 348 F.2d 999 (2 Cir 1965), cert. den. 328 U.S. 957, 86 S.Ct. 435, 15 L.Ed 2d 361 (1965).
- Stuart v. School District No. 1 of Kalamazoo, 30 Mich. 69 (1874).

Sturgis v. The County of Allegan, 343 Mich 209, 72 NW(2d) 56 (1955).

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

United States v. Bennett, 16 Blatch 338, Red. Case 14, 571 (1879).

William v. Board of Education of Kanawha.

Wisconsin v. Yoder, 406 U.S. 205, 92 S. Ct. 1526, 32 L.Ed. 2d 15 (1972).

Wright v. Houston Independent School District, 486 F.2d 137 (5 Cir. 1973).

Wulff v. Inhabitants of Wakefield, 221 Mass 427, 109 NE 358 (1915).

Zorach v. Clauson, 343 U.S. 306, 72 S.Ct. 679, 96 L.Ed. 954 (1952).

2. Other Primary Sources

Code of Alabama, 1975, volume 13. Charlottesville, Bobbs-Merrill Company.

Alaska Statutes, 1962, Title 14, Charlottesville, The Michie Company.

Arizona Revised Statutes, 1984, volume 6A. St Paul, Minnesota, West Publishing Company.

Arkansas Statutes, 1980, Replacement volume 7. Charlottesville, Bobbs-Merrill Company.

Education Code Annotated of the State of California, 1978. San Francisco, Bancroft-Whitney Company.

Colorado Revised Statutes, 1973, volume 9. Denver, Colorado, Bradford-Robinson Company.

Connecticut General Statutes Annotated, 1977, volume 5A. St. Paul, Minnesota, West Publishing Company.

Delaware Code Annotated, 1981, Volume 8, Charlottesville, The Michie Company.

West's Florida Statutes Annotated, 1977, volume 11, St. Paul, Minnesota, West Publishing Company.

Official Code of Georgia Annotated, 1982, volume 17. Charlottesville, The Michie Company.

Hawaii Revised Statutes, 1976, volume 4. State of Hawaii.

Idaho Code, 1981, volume 6A. Charlottesville, Bobbs-Merrill Company.

Smith Hurd Illinois Annotated, 1962, chapter 122. St. Paul, Minnesota, West Publishing Company.

Burns Indiana Statutes Annotated, 1975, Titles 20-21. Indianapolis, Bobbs-Merrill Company.

Iowa Code Annotated, volume 13. St. Paul, Minnesota, West Publishing Company.

Kansas Statutes Annotated, 1980, Title 72. Topeka, Kansas, Division of Printing, State Department of Administration.

Kentucky Revised Statutes, 1980, volume 7. Charlottesville, Bobbs-Merrill Company.

West's Louisiana Statutes Annotated, 1982, volume 13. St. Paul, Minnesota, West Publishing Company.

Maine Revised Statutes Annotated, 1964, volume 11. St. Paul, Minnesota, West Publishing Company.

Annotated Laws of Maryland, 1985, Titles 1-26. Charlottesville, The Michie Company.

Annotated Laws of Massachusetts, 1978, Title 71. St. Paul, Minnesota, West Publishing Company.

Michigan Statutes Annotated, 1984 Revised, volume 11 Wilmette, Indiana, Callaghan Company.

Minnesota Statutes Annotated, 1960, volume 10. St. Paul, Minnesota, West Publishing Company.

Mississippi Code Annotated, 1972, volume 10. Atlanta, Georgia, The Harrison Company.

Montana Code Annotated, 1984, volume 2. Helena, Montana, Montana Legislative Council.

Revised Statutes of Nebraska, 1981, volume 5. Lincoln, Nebraska, Revisor of Statutes.

Nevada Revised Statutes, 1983, volume 16. Carson City, Nevada, Nevada Legislative Council.

New Hampshire Revised Statutes Annotated, 1977, volume 2B. New York, The Lawyers Co-operative Publishing Company.

- New Jersey Statutes Annotated, 1968, Title 18A. St. Paul, Minnesota, West Publishing Company.
- New Mexico Statutes Annotated, 1978. Chapter 22. Charlottesville, The Michie Company.
- McKinney's Consolidated Laws of New York Annotated, 1969, Book 16. St. Paul, Minnesota, West Publishing Company.
- General Statutes of North Carolina, 1983, volume 3A Part II. Charlottesville, The Michie Company.
- North Dakota Century Code, 1981, volume 3B. Indianapolis, Indiana, The Allen Smith Company.
- Page's Ohio Revised Code Annotated, 1980, Title 33. Cincinnati, Ohio, The W. H. Anderson Company.
- Oklahoma Statutes Annotated, 1972, Title 70. St. Paul, Minnesota, West Publishing Company.
- Oregon Revised Statutes, 1983, volume 3. Oregon Legislative Counsel Committee.
- Purdon's Pennsylvania Statutes Annotated, 1962, Title 24. St. Paul, Minnesota, West Publishing Company.
- General Laws of Rhode Island, 1981, volume 3A. Charlottesville, Bobbs-Merrill Company.
- Code of Laws of South Carolina, 1976, volume 20. Rochester, New York, Lawyers Co-operative Publishing Company.
- South Dakota's Codified Laws, 1982, volume 5. Indianapolis, Allen Smith Company.
- Tennessee Code Annotated, 1983, volume 9. Charlottesville, The Michie Company.
- Vernon's Civil Statutes of State of Texas, 1965, volume 8B. Kansas City, Vernon Law Book Company.
- Utah Code Annotated, 1981, volume 5B. Indianapolis, The Allen Smith Company.
- Vermont Statutes Annotated, 1974, Titles 14-16. Oxford, New Hampshire, Equity Publishing Corporation.

Code of Virginia, 1985, volume 5. Charlottesville, The Michie Company.

West Virginia Code Annotated, 1984, volume 7. Charlottesville, The Michie Company.

Wisconsin Statutes Annotated, 1973, volume 18. St. Paul, Minnesota, West Publishing Company.

Wyoming Statutes Annotated, 1985, Title 21. Charlottesville, The Michie Company.

B. SECONDARY SOURCES

1. Books and Pamphlets

Anderson, Vernon E. Principles and Procedures of Curriculum Improvement. New York: Ronald Press, 1965.

Adler, Mortimer. The Paideia Proposal. New York: MacMillan Company, Inc., 1982.

Alexander, Kern and Alexander, David. The Law of Schools, Students and Teachers. St. Paul, Minnesota: West Publishing Company, 1984.

Berreman, Gerald et al. Anthropology Today. Del Mar, California: Communications Research Machines, Inc., 1971.

Bolmeier, Edward C. The School in the Legal Structure. Cincinnati: The W. H. Anderson Company, 1973.

Bridenbaugh, Carl. Vexed and Troubled Englishmen, 1590-1642. New York: Oxford University Press, 1968.

Brubaker, Dale L. Curriculum Planning: The Dynamics of Theory and Practice. Glenview, Illinois: Scott Foresman and Company, 1982.

Bryson, Joseph E. and Detty, Elizabeth W. Censorship of Public School Library Materials. Greensboro: Michie Company, 1982.

Bryson, Joseph E. and Houston Jr., Samuel H. The Supreme Court and the Legality of Using Public Funds for Religious and Secondary Schools: 1970-1984. Greensboro, 1984, p. 21.

- Church, Robert L. Education in the United States. New York: The Free Press, 1976.
- Cremin, Lawrence A. American Education: The Colonial Experience 1607-1783. New York: Harper & Row, 1970.
- Cremin, Lawrence A. Traditions of American Education. New York: Basic Books, Inc., 1977.
- Cremin, Lawrence A. The Transformation of the School. New York: Alfred A. Knopf, Inc., 1961.
- Cubberly, Ellwood P. Public Education in the United States. Chicago: Houghton Mifflin Company, 1934.
- Drury, Robert L. and Ray, Kenneth C. Essentials of School Law. New York: Appleton-Century-Crofts, 1967.
- Dillon, Francis. The Pilgrims. New York: Doubleday and Company, 1975.
- Edwards, Newton. The Courts and the Public Schools. Chicago: The University of Chicago Press, 1940.
- Fellman, David. The Supreme Court and Education. New York: Teachers College Press, 1965.
- English, Fenwick W. Quality Control in Curriculum Development. Arlington: American Association of School Administration, 1978.
- Ferguson, Wallace. The Renaissance in Historical Thought (Boston, 1948).
- Fulbright, Evelyn and Bolmeier, Edward D. Courts and the Curriculum. Cincinnati: The W. H. Anderson Company, 1964.
- Goldstein, Stephen R. and Gee, E. Gordon. Law and Public Education. Charlottesville: The Michie Company, 1980.
- Graebner, Norman A. Fite, Gilbert C. and White, Philip L. A History of the United States, Volume I, New York: McGraw Hill Book Company, 1970.
- Henning, Joel F. Et. al. Mandate for Change. The Impact of Law on Educational Innovation. American Bar Association, 1979.
- Hentoff, Nat. Censorship Libraries and the Law. New York: Neal-Schuman Publishers, Inc., 1983.
- Hogan, John. The Schools, the Courts, and the Public Interest. Lexington, Massachusetts: D.C. Heath and Company, 1985.

- Hudgins, H. C. Jr. and Vacca, Richard S. Law and Education: Contemporary Issues and Court Decisions. Charlottesville: The Michie Company, 1979.
- Ingles, A. J. The Rise of the High School in Massachusetts. New York: Teachers College Contributions to Education, No. 45, 1911.
- Jensen, Malcolm C. America in Time. Boston: Houghton Mifflin Company, 1977.
- Kaestle, Carl F. The Evolution of an Urban School System: New York City, 1750-1850. Cambridge, Mass.: Harvard University Press, 1973.
- Kliebard, Herbert M. Three currents of American curriculum Thought. Current Thought on Curriculum: 1985 ASCD Yearbook. Alexandria, Virginia: Association for Supervision and curriculum Developemnt, 1983.
- Knight, Edgar. Education in the United States. Boston: Ginn and Company, 1929.
- Knight, Edgar W. Twenty Centuries of Education. New York: Ginn and Company, 1940.
- Krug, Edward A. Administering Curriculum Planning. New York: Harper and Row, Publishers, 1956.
- Leomis, Louise R. ed. Five Greek Dialogues: Plato. New York: Walter J. Black, 1942.
- McCluskey, Neil Gerard. Public Schools and Moral Education. New York: Columbia University Press, 1958.
- Meyer, Adolphe E. An Educational History of the American People. New York: McGraw Hill Book Company, 1957.
- Morris, Richard B. The New World. New York: Time Incorporated, 1963.
- McMillan, Richard C. Religion in the Public Schools. New York: Mercer Press, 1984.
- Morris, Arval A. The Constitution and American Education. St. Paul, Minnesota: West Publishing Company, 1980.
- Notte, Chester. Guide to School Law. Nyack, New York: Parker Publishing Company.
- Rapp, James A. Volume I Education Law. New York: Matthew Bender Company, 1985.

- Rapp, James A. Volume II Education Law. New York: Matthew Bender Company, 1985.
- Rapp, James A. Volume III Education Law. New York: Matthew Bender Company, 1985.
- Ravitch, Diane. The Schools We Deserve. New York: Basic Books, Inc. Publishers, 1985.
- Ravitch, Diane. The Troubled Crusade American Education 1945-1980. New York: Basic Books, Inc., 1983.
- Reutter, E. Edmund. The Supreme Court's Impact on Public Education. Phi Delta Kappa and National Organizations on Legal Problems of Education, 1982.
- Reutter, Jr., E. Edmund and Hamilton, Robert R. The Law of Public Education. New York: The Foundation Press, Inc. 1976, p. 2.
- Sarason, Seymour B. Schooling in America. New York: The Free Press, 1983.
- Siegel, Beatrice. A New Look at the Pilgrims. New York: Walker and Company, 1977.
- Stephens, Wade C., ed. The Spirit of the Classical World. New York, N.Y.: G.P. Putnam's and Sons, 1967, p. 13.
- Stodderd, Frances R. The Truth About the Pilgrims. New York, 1952.
- Taba, Hilda. Curriculum Development: Theory and Practice. New York: Harcourt, Brace, Jovanovich, Inc., 1962, p. 11.
- Thomas Hugh. A History of the World. New York: Harper and Row, Publishers, 1979.
- Tyler, Ralph. "The curriculum Then and Now." Proceedings of the 1956 Conference on Testing Problems. Princeton, N.J.: Education Testing Services, 1957.
- Unruh, Glenys G. "Curriculum Politics." Fundamental Curriculum Decisions, Edited by fenwick W. English, (Alexandria, Virginia: Association for Supervision and curriculum Development, 1983), p. 102.
- Verduin, John R. Jr. Cooperative Curriculum Improvement. Englewood Cliffs, New Jersey: Prentice Hall, Inc., 1967.
- Warshaw, Thayer S. Religion Education and the Supreme Court. Nashville: Abingdon Press, 1979.

2. Journals, Periodicals, and Newspapers

- Ehrenberg, Sydelle. "The Case for Structure." Educational Leadership, 34(October 1976): 48-53.
- Franklin, John Hope. "The National Responsibility for Equality of Educational Opportunity." Education Week 3(October 1984): 24-25.
- Fuller, Lawrence B. "Student's Rights of Expression. The Decade Since Tinker." English Journal, 68(December 1979): 11-15.
- "Growing War Pro and Anti-Censorship Forces Use School As Battlegrounds." Phi Delta Kappan, 61(June 1980): 722-724.
- Kemerer, Frank R. and Hirsh, Stephanie Abraham. "School Library Censorship Comes Before the Supreme Court." Phi Delta Kappan, 63(March 1982): 444-447.
- Kraus, Larry L. "Censorship: What Island Trees V. Pico Means to Schools." The Clearing House, 57(1984): 343-347.
- Massie, Dorothy C. "Censorship in the Schools: Something Old and Something New." Today's Education, 69(November, December, 1980): 30-34.
- McFadden, Bernard J. "Bilingual Education and the Law." Journal of Law and Education, 12(January 1983): 1-27.
- Parker, Franklin. "Behind the College Board Review." College Board Review, 123(Spring 1982): 17-21.
- Ravitch, Diane. "What We've Accomplished Since WWII." Principal, 63(January 1984): 8-13.
- Sorenson, Gail Paulus. "Removal of Books From School Libraries 1972-1982." Journal of Law and Education, 12(July 1983): 417-441.
- "Text of Key Provisions on Religious Meetings." New York Times, 26 July 1984, sec. L, p. A16.
- Triplett, Frank. "The Growing Battle of the Books." Time, 117(January, 1981): 86-88.
- White, Eileen. "Bilingual education in the 1980's: Basic Questions Remain Unresolved." Education Week, 3(February 8, 1984):13.
- Zisenwine, David. "American Curriculum Abroad." Educational Leadership, 39(March 1982): 416-419.

3. Legal Research Aids

American Digest System. St. Paul, Minnesota: West Publishing Company.
General Digest, Fourth Series, 1966-1985.

American Jurisprudence. 2nd ed. Volume 68. Rochester, New York:
Lawyers Co-operative Publishing Company, 1973.

Corpus Juris Secundum. Volumes 78 and 79. New York: The American
Law Books Company, 1952.

Descriptive Word Index. St. Paul, Minnesota: West Publishing Company.

National Reporter System. St. Paul, Minnesota: West Publishing Company.
The Atlantic Reporter
The California Reporter
The Southeastern Reporter
The Southern Reporter
The Federal Reporter
The Federal Supplement
The Supreme Court Reporter

Nolpe School Law Reporter. Volumes 25-26. Topeka, Kansas: National
Organization on Legal Problems in Education, January, 1984 -
December, 1985.

Shepherd's Citations. Colorado Springs, Colorado: Shepherd's Citations,
Inc. m.d.

4. Microform Reproductions

Ball, Howard G. and Nordmann, Terrance J. Scientific Creationism in
Our Public School Curricula. ERIC Document Reproduction Service,
ED 205 381, December, 1981.

Brennan, Dennis C. and Banaszah, Ronald A. A Study of State Mandates
and Competencies for Economic Education. ERIC Document Reproduc-
tion Service, ED 216 946, October, 1982.

_____. Elementary-Secondary Guide for Oregon Schools, 1980.
ERIC Document Reproduction Service, ED 208 476, March, 1982.

Ogletree, Earl J. State Legislated Curriculum in the United States.
ERIC Document Reproduction Service, ED 177 713, March, 1980.

Schaffarzich, Jon, and Sykes, Gary, editors. Value Conflicts and
Curriculum Issues: Lessons from Research and Experience. ERIC
Document Reproduction Service, ED 189 722, December, 1980.

Shelton, Dinah. Legislative Control over Public School Curriculum. ERIC Document Reproduction Services, EJ 219 631, August, 1980.

Sneller, Angela K. Censorship in Public Schools. ERIC Document Reproduction Service, ED 207 118, February, 1982.

Solleder, Marian K. Legislative Action for Health Education: The North Carolina Story. ERIC Document Reproduction Service, EJ 255 721, April, 1982.

_____. State Legal Standards for the Provision of Public Education. ERIC Document Reproduction Service, ED 172 455, November, 1979.

Volz, Marlin M. Parental Rights in Education. ERIC Document Reproduction Service, ED 203 436, November, 1981.

5. Reports

Margolin, Merrie. Student Improvement in the Eighties: A Statutory Review. Denver, Colorado: Education Commission of the States, October, 1984.

_____. Standards for Quality Elementary Schools. Reston, Virginia: National Association of Elementary School Principals, 1984.

6. Unpublished Materials

Bentley, Charles P., "Legal Aspects of Ability Grouping, Tracking, and Classification." Unpublished D Ed dissertation, University of North Carolina, Greensboro, 1978.

Boyles, Jr., Bennett, "The Legal Aspects of the Public School Academic Curriculum." Unpublished D Ed dissertation, University of North Carolina, Greensboro, 1981.

Bryson, Joseph. "Current Trends in Education Law." Paper presented at the Guilford College Law Conference, Greensboro, North Carolina, June, 1983.

Mize, Richard Leon, "The Legal Aspects of Religious Instruction in Public Schools." Unpublished D Ed dissertation, University of North Carolina, Greensboro, 1980.

APPENDIX

STATE STATUTES MANDATING
CURRICULUM TAUGHT IN PUBLIC SCHOOLS

ALABAMA

Section 16-40-1. Physical education required.

Every public school and private or parochial school shall carry out a system of physical education, the character of which shall conform to the program or course outlined by the department of education.

Section 16-40-2. Constitution of United States in course of instruction.

In all public and private schools located within the state of Alabama, there shall be given regular courses of instruction of the Constitution of the United States. Such instruction in the Constitution of the United States shall begin not later than the opening of the eighth grade and shall continue in the high school course and in courses in state colleges, universities and the educational departments of state municipal institutions to an extent to be determined by the state superintendent of education.

Section 16-40-3. Instruction in history, doctrines, etc., of communism.

(a) The legislature of the state of Alabama hereby finds it to be a fact that: (1) . . .communism is in conflict with and contrary to the principles of the constitutional government of the United States . . . (2) . . . manipulation of youth and student groups. . . (3)The best method of meeting this challenge is to have the youth of the state and nation thoroughly and completely informed as to the evils, dangers and fallacies of communism by giving them a thorough understanding of the entire communist movement, including its history, doctrines, objectives and techniques. . .

Section 16-40-4. Humane treatment of animals taught.

There shall be taught in the public schools of this state, in addition to other branches of study as now prescribed, a system of humane treatment of animals. . . at least 20 minutes each week through the entire term to teaching the pupils of his or her school kindness, justice and humane protection of birds and animals and the important place they occupy in the economy of nature. . .

Section 16-40-5. Driver education.

. . . all pupils in the public high schools of Alabama will be required to have successfully completed an approved course in driver education before high school graduation. . .

Section 16-41-7. Adoption of regulations by state board; scheduling of drug abuse education courses.

The state board shall adopt regulations to insure the teaching of drug abuse education to all pupils. Every county and city school system shall schedule drug abuse education courses as part of the curriculum of every school, K-12.

Section 16-40-6. Courses, lectures and units of instruction to teach principles of patriotism.

The state department shall establish a program of courses or lectures for the public schools in this state to teach the principles of patriotism in its curriculum. . .

Section 16-40-7. Comprehensive health education.

(a) A comprehensive health program consists of . . . consumer health, dental health, environmental health, family life, mental and emotional health, nutrition, personal health, prevention and control of diseases, safety and accident prevention and tobacco, alcohol and other drugs.

(b) . . .high school students in the public high schools of Alabama shall receive one-half unit of credit upon the completion . . .of a full semester of work.

(c) Beginning with pupils who enter the tenth grade during the school year 1982-83, all pupils in the public high schools of Alabama will be required to have successfully completed an approved one-semester course in health education before high school graduation. . .

Section 16-40-8. Cardiopulmonary resuscitation.

(a) Effective upon the effective dates of this section, all students enrolled in health classes in the tenth grade in the public schools of Alabama shall receive instruction in the techniques of cardiopulmonary resuscitation, hereinafter referred to as "CPR." . .

Section 16-43-5. Students to be afforded opportunity to voluntarily recite pledge of allegiance to United States flag.

The state board of education shall afford all students attending public kindergarten, primary and secondary schools the opportunity each school day to voluntarily recite the pledge of allegiance to the United States flag.

ALASKA

Section 14.07.020. Elementary Course of Study.

The Course of Study for the Elementary Schools in Alaska, reissued by the department in 1971, is officially adopted as the standard for elementary schools.

Section 14.07.020. High School Graduation Requirements.

(a) Each chief school administrator shall develop and submit to the district board for approval a plan consisting of district high school graduation requirements. The plan must require that, before graduation, a student must have earned at least 21 units of credit.

(b) Specific subject area units-of-credit requirements must be set out in each district plan and must require that, before graduation, a student must have completed at least the following: (1) language arts- 4 units of credit; (2) social studies - 3 units of credit; (3) mathematics - 2 units of credit; (4) science - 2 units of credit; (5) health-physical education - 1 unit of credit.

(c) Districts which do not require 21 units of credit for graduation on June 16, 1984, must increase their requirements by at least one unit each school year until the number of units required attains or exceeds 21.

Section 14.30.360. Curriculum

(a) Each district in the state public school system shall be encouraged to initiate and conduct a program in health education for kindergarten through grade 12. The program should include instruction in physical health including alcohol and drug abuse education, dental health, family health, environmental health, and appropriate use of health services.

(b) The state board shall establish by regulation guidelines for a health education program. A school health education specialist position shall be established and funded in the department to coordinate the program statewide. Adequate funds to enable curriculum and resource development, adequate consultation to school districts, and a program of teacher training in health education shall be provided.

Section 14.30.400. Bilingual-bicultural education.

City or borough district school boards and regional educational attendance area boards shall provide a bilingual-bicultural education program for each school in a city or borough school district or regional educational attendance area which is attended by at least eight pupils of limited English-speaking ability and whose primary language is other than English. A bilingual-bicultural education program shall be provided under a plan of service which has been developed in accordance with regulations adopted by the department. Nothing in this section precludes a bilingual-bicultural education program from being provided for less than eight pupils in a school.

Section 14.30.500. Adventure-based education program.

An adventure-based education program is a program designed to bring adventure-based education to high school students and appropriate juvenile offenders. A program shall include . . . basic skills learning . . . and skills generalization.

ARIZONA

Section 15.701.01. High school; graduation; requirements; community college or university courses.

A. Prior to the 1984-1985 school year, the state board of education shall prescribe minimum course of study and competency requirements for the graduation of pupils from high school. Prior to the 1986-1987 school year, the governing board of a school district shall prescribe course of study and competency requirements for the graduation of pupils from the high schools in the school district. The governing board may prescribe course of study and competency requirements for the graduation of pupils from high school which are in addition to or higher than the course of study and competency requirements which the state board prescribes.

B. The governing board may prescribe competency requirements for the passage of pupils in courses which are required for graduation from high school.

C. A teacher shall determine whether to pass or fail a pupil in a course in high school. . .

D. . . .The governing board shall determine if the subject matter of the community college or university course is appropriate to the specific requirement the pupil intends it to fulfill and if the level of the course is equal to or higher than a high school course, . . .

Section 15.704. Oral and silent reading.

As part of its training in developing reading skills, each common school shall devote reasonable amounts of time to oral and silent reading in grades one through eight.

Section 15.708. Remedial education programs; powers of the governing board; definition.

A. Beginning July 1, 1980 school districts with an estimated student count of five thousand or less for the 1980-1981 school year may provide remedial education programs to children with learning problems who are presently being served in special education programs as provided in article 4 of this chapter but who will no longer qualify for special education from and after July 20, 1971.

B. Beginning July 1, 1980 school districts with an estimated student count of more than five thousand for the 1980-1981 school year shall provide remedial education programs to children with learning problems who are presently being served in special education programs as provided in article 4 of this chapter but who will no longer qualify for special education from and after July 20, 1979.

Section 15.710. Instruction in state and federal constitutions, American institutions and history of Arizona.

All schools shall give instruction in the essentials, sources and history of the constitutions of the United States and Arizona and instruction in American institutions and ideals and in the history of Arizona. The instruction shall be given in accordance with the state course of study for at least one year of the common school grades and high school grades respectively. The state board of education shall prescribe suitable teaching materials for such instruction.

Section 15.711. Instruction in free enterprise system; definition.

A. All high schools shall give instruction on the essentials and benefits of the free enterprise system. Instruction shall be given in accordance with the course of study prescribed by the state board of education for at least one semester, equal to one-half unit of credit. The state board of education shall prescribe suitable teaching materials for such instruction.

B. The costs of such instruction. . . shall be an expense of the school district involved.

C. As used in this section "free enterprise" means an economic system characterized by private or corporate ownership of capital goods, by investments that are determined by private decision rather than by state control and by prices, production and the distribution of goods that are determined in a free manner.

Section 15.712. Instruction on alcohol, tobacco, narcotic drugs, marijuana and dangerous drugs.

A. Instruction on the nature and harmful effects of alcohol, tobacco, narcotic drugs, marijuana, and dangerous drugs on the human system and instruction on the prevention of alcohol, tobacco, narcotic, marijuana, and dangerous drug abuse shall be included in the courses of study in common and high schools. The instruction may be combined with health, science, citizenship or similar studies. . .

Section 15.713. Training in use of bows or firearms; instruction materials; certification of instructors; cooperating agencies.

A. The state board of education, in cooperation with the Arizona game and fish department, may provide training in the safe handling and use of bows or firearms and safe hunting practices, in conjunction with the common schools and high schools of the state when the schools request the training.

Section 15.752. Conducting of schools in English language; bilingual or English as second language programs; voluntary participation; parental notification.

A. All classes shall be conducted in English except classes of bilingual instruction or foreign language instruction.

B. In any school district in which there are pupils who are limited English proficient, the governing board of the school district shall

provide programs of bilingual instruction or English as a second language instruction as provided in this article. The primary goal of such programs is to allow the pupils to become proficient enough in English to succeed in classes taught in English. The governing board shall determine if a pupil is limited English proficient by assessing the pupil's language proficiency in comprehension, speaking, reading and writing, in both English and the primary home language.

C. Pupil participation in any program of bilingual instruction or English as a second language instruction is voluntary and requires parental notification. Parents or guardians who do not want their child to participate in a bilingual program or English as a second language program shall so indicate in writing to the principal of the school in which the pupil is enrolled.

Section 15.754. Bilingual programs and English as a second language programs; requirements.

A. Each school district which has ten or more limited English proficient pupils in any kindergarten program or grade in any school shall provide a bilingual program or English as a second language program for the limited English proficient pupils. . .

Section 15.763. Plan for providing special education.

All school districts shall develop a district plan for providing special education to all handicapped children within the district and submit it to the state board of education for approval. All handicapped children shall receive special education programming commensurate with their abilities and needs.

ARKANSAS

Section 80.1663. Requirement for balanced treatment of creation-science and evolution-science.

Public schools within this State shall give balanced treatment to creation-science and to evolution-science. Balanced treatment to these two models shall be given in classroom lectures taken as a whole for each course, in library materials taken as a whole for the sciences and taken as a whole for the humanities, and in other educational programs in public schools, to the extent that such lectures, textbooks, library materials, or educational programs deal in any way with the subject of the origin of man, life, the earth, or the universe.

Section 80-1601. Course of study--Minimum length of term.

There shall be taught in all of the common or elementary schools of this state such subjects as may be designated by the State Board of Education, or required by law. Provided, nothing in this section shall be construed to prohibit the inclusion of additional subjects in the State Course of study or in any course formulated for a school district and approved by the State Board of Education. All common schools of the State shall be open and free for at least six months each year.

Section 80-1603. American flag furnished schools--Instruction of pupils.

The directors of any school district shall expend a reasonable sum from the funds of the school district for an American Flag, and for the erection of a suitable flagstaff on the schoolhouse or school grounds, shall see to it that the pupils are instructed in the etiquette of the flag, and cause the flag to be displayed on the flagstaff during school hours when the weather permits.

Section 80-1605. Basic language of instruction.

The basic language of instruction in the common school branches in all the schools of the State, public and private, shall be the English language only. . .

Section 80-1607.1. Silent meditation and reflection.

The teacher in charge of each public school classroom may, or if so directed by the board of directors of the district in which such teacher is employed, shall, at the opening of school on each school day conduct a brief period of silent meditation and reflection with the participation of all students in the classroom who desire to participate.

Section 80-1608. Patriotic observances.

The twenty-second day of February, as the birthday of George Washington, and the nineteenth day of January, as the birthday of Robert E. Lee, and the eleventh day of November, as Armistice Day, and such other days as may be designated by the State Board of Education for patriotic observance, shall be observed with appropriate exercises. Nothing in this section shall be construed as authorizing the closing of any school on the said days without consent of the board of directors of the district.

Section 80-1610. Patriotic service provided for pupils.

Unless a patriotic program has been otherwise arranged in or for the community wherein such school is situated, and in which the school children will participate, the principal, or other person, in charge of said school or schools shall provide a patriotic service for the pupils of said school, and to be included in said service shall be the meaning, use of and proper respect for the flag of the United States.

Section 80-1612. Celebration of Bird Week--Suitable exercises and lessons.

The Arkansas State Game and Fish Commission, the State Board of Education and all local Boards of Education are hereby directed to provide for the celebration by all Public Schools of "Bird Week." During "Bird Week" suitable exercises are to be engaged in, and lessons on the economic and esthetic value of the resident and migratory birds of the state are to be taught by the teachers to their pupils.

Section 80-1613. American history to be taught in schools.

From and after taking effect of this act (Sections 80-1604, 80-1613--80-1616), the teaching of American history in the primary grades of all the schools, both public and private, of this State shall be compulsory. Such teaching shall commence in the lowest primary grade of each of said schools and shall be continued all through the primary grades; provided that the teaching of the Arkansas history, as now provided by law, may be substituted for American history in one of the said grades. At least one hour in every scholastic week shall be devoted to such instruction. The instilling into the hearts of the various pupils of an understanding of the United States and of a love of country and of a devotion to the principles of American Government, shall be the primary object of such instruction, which shall avoid, as far as possible, being a mere recital of dates and events.

Section 80-1614. Full year of American history and civics required for graduation from high school -- Study of Arkansas history and government.

(a) No person shall be graduated from any high school, public or private, in this State, until he or she shall have satisfactorily completed at least one full year's work in American History and Civics.

(b) From and after the passage of this Act every school in this State shall offer not less than one-half of a year's instruction in Arkansas history, and Arkansas state and local government between the fifth and twelfth grades, inclusive, provided, that such courses shall not be a prerequisite for graduation.

Section 80-1617. Course of physical training outlined by commissioner of education.

It shall be the duty of the Commissioner of Education, as executive officer of the State Board of Education, to outline a course of physical training for use in the various schools of the State, and for this purpose he shall have the advice and cooperation of the State Board of Health. Said course shall be adapted to the ages, capabilities and state of health of pupils in the several grades and departments, and shall include exercises, calisthenics, formation drills, instruction in personal and community health and safety, and in preventing and correcting bodily deficiency. Every pupil in the schools of this State, except

such as may be excused by reason of bodily defect or physical deficiency, shall be required to take the course of physical training herein provided, the time devoted to such course to be as prescribed in the outline prepared by the Commissioner of Education. It shall be the duty of the county and city superintendents of schools, boards of directors, and other school officers to see that the provisions of this section are carried into effect.

Section 80-1618. Effect of alcohol and narcotics to be taught --Textbooks to cover subject.

The State Board of Education is hereby directed and required to revise the present course of study for the public schools of Arkansas so as to include teaching the effects of alcohol and other narcotics on the human system in grades three to eight, inclusive.

The State Textbook Commission (State Board of Education) is hereby directed and empowered to require the textbooks on the subject of Physiology and Hygiene in grades three to eight, inclusive, to include a simple, scientific treatment on the effects of alcohol and other narcotics on the human system, which textbooks shall be free from political propaganda, and shall contain complete, detailed and scientific information on the subject, to be taught as a unit of work every year, and shall meet the requirements of the state course of study as outlined by the State Board of Education. Adequate time shall be given to teach the subject efficiently in each grade. The work in the subject of alcohol and other narcotics shall be a part of the work for promotion from one grade to another; provided also, that provisions shall be made in the course of study for the State Department of Education to provide teacher's aids and devices for the assistance of teachers in teaching the effects of alcohol and other narcotics on the human system.

Section 80-1621. High school students required to take course on conservation of natural resources.

On and after September 1, 1939, all of the higher schools supported by the public funds shall give instructions in the conservation of natural resources, including the study of fish and game, soil fertility and erosion, forests and minerals, and all students in said institutions shall be required to take such course of instructions.

Section 80-1622. Nature study required in elementary grades.

. . . nature study shall be a fundamental requirement of promotion from grades in at least two of the elementary grades of the public schools.

Section 80-1626. Course in fire prevention.

The study of fire prevention is hereby included in the course of study in the primary grades of all public schools in the State of Arkansas, and definite instruction in said subjects shall be given to each pupil and student therein, and a period of not less than twenty minutes during each scholastic week shall be devoted to the study and consideration of said subject.

CALIFORNIA

Section 51201. Additional courses or activities which may be included.
In addition to the course of study requirements set forth in this chapter, the governing board of any school district may include in the curriculum of any school such additional courses of study, courses, subjects, or activities which it deems fit the needs of the pupils enrolled therein.

Section 51202. Instruction in personal and public health and safety.
The adopted course of study shall provide instruction at the appropriate elementary and secondary grade levels and subject areas in personal and public safety and accident prevention, including emergency first aid instruction, instruction in hemorrhage control, treatment for poisoning, resuscitation techniques, and cardiopulmonary resuscitation when appropriate equipment is available; fire prevention; the protection and conservation of resources, including the necessity for the protection of our environment; and health, including venereal disease and the effects of alcohol, narcotics, drugs, and tobacco upon the human body.

Section 51203. Instruction on alcohol, narcotics and restricted dangerous drugs.

Instruction upon the nature of alcohol, narcotics, restricted dangerous drugs. . . and their effects upon the human system as determined by science shall be included in the curriculum of all elementary and secondary schools.

Section 51213. Instruction in social sciences.

Instruction in social sciences shall include the early history of California and a study of the role and contributions of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the roles of these groups in contemporary society.

Section 51215. Adoption of standards of proficiency in basic skills; Differential standards and assessment procedures.

. . . (c) These standards shall include, but need not be limited to, reading comprehension, writing, and computation skills, in the English language, necessary to success in school and life experiences, and shall be such as will enable individual achievement to be ascertained and evaluated. The standards shall be directly related to the district's instructional program. . .

(1) Differential standards and assessment procedures shall be adopted for pupils who:

(A) Are enrolled in special education programs . . .

Section 51225. (Effective until July 1, 1986) Requirements for graduation.

No pupil shall receive a diploma of graduation from high school who has

not completed the course of study prescribed by the governing board. Requirements for graduation shall include; (a) English. (b) American history. (c) American government. (d) Mathematics. (e) Science. (f) Physical education, unless the pupil has been exempted pursuant to the provisions of this code. (g) Such other subjects as may be prescribed.

Section 51225.3. Required course of study for high school diploma.

- (a) Commencing with the 1986-87 school year, no pupil shall receive a diploma of graduation from high school who, while in grades 9 through 12, has not completed all of the following;
- (1) At least the following numbers of courses in the subjects specified, each course having a duration of one year.
- (A) Three courses in English.
- (B) Two courses in mathematics.
- (C) Two courses in science, including biological and physical sciences.
- (D) Three courses in social studies, including United States history and geography; world history, culture, and geography; and American government, civics, and economics.
- (E) One course in visual or performing arts or foreign language.
- (F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

Section 51210. Areas of study.

The adopted course of study for grades 1 through 6 shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

- (a) English, including knowledge of, and appreciation for literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.
- (b) Mathematics, including concepts, operational skills, and problem solving.
- (c) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system including the role of the entrepreneur and labor; man's relations to his human and natural environment; eastern and western cultures and civilizations; and contemporary issues.
- (d) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on man's place in ecological systems.
- (e) Fine arts, including instruction in the subjects of art and music, aimed at the development of aesthetic appreciation and the skills of creative expression.

- (f) Health, including instruction in the principles and practices of individual, family, and community health.
- (g) Physical education, with emphasis upon such physical activities for the pupils as may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 school-days, exclusive of recesses and the lunch period.
- (h) Such other studies as may be prescribed by the governing board.

Section 51220. Areas of study; Grades 7 to 12.

The adopted course of study for grades 7 through 12 shall offer courses in the following areas of study;

- (a) English, including knowledge of and appreciation for literature, language, and composition, and the skills of reading, listening, and speaking.
- (b) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; instruction in our American legal system, the operation of the juvenile and adult criminal justice systems, and the rights and duties of citizens under the criminal and civil law and the State and Federal Constitutions; the development of the American economic system including the role of the entrepreneur and labor; man's relations to his human and natural environment; eastern and western cultures and civilizations; and contemporary issues.
- (c) Foreign language or languages, beginning not later than grade 7, designed to develop a facility for understanding, speaking, reading, and writing the particular language.
- (d) Physical education, with emphasis given to such physical education activities as may be conducive to health and to vigor of body and mind.
- (e) Science, including the physical and biological aspects, with emphasis on basic concepts, theories, and processes of scientific investigation and on man's place in ecological systems, and with appropriate applications of the interrelation and interdependence of the sciences.
- (f) Mathematics, including instruction designed to develop mathematical understandings, operational skills, and insight into problem-solving procedures.
- (g) Fine arts, including art, music, or drama, with emphasis upon development of aesthetic appreciation and the skills of creative expression.
- (h) Applied arts, including instruction in the areas of consumer and homemaking education, industrial arts, general business education, or general agriculture.
- (i) Vocational-technical education designed and conducted for the purpose of preparing youth for gainful employment in such occupations and in such numbers as appropriate to the manpower needs of the state and the community served and relevant to the career desires and needs of the students.
- (j) Automobile driver education, designed to develop a knowledge of the provisions of the Vehicle Code and other laws of this state relating to

the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge and attitudes necessary for the safe operation of motor vehicles. A course in automobile driver education shall include education in the safe operation of motorcycles.

(k) Such other studies as may be prescribed by the governing board. 62 Ops Atty Gen 43 (A high school district is required to provide automobile driver training instruction for those students who are eligible and elect to participate in the program),1985.

COLORADO

Section 22.1.103. Policy of state to instruct in English - exceptions. Instruction in the common branches of study in the public schools of this state shall be conducted principally through the medium of the English language; except that it shall be the policy of the state also to encourage the school districts of the state to develop bilingual skills and to assist pupils whose experience is largely in a language other than English to make an effective transition to English, with the least possible interference in other learning activities.

Section 22.1.104. Teaching of history, culture, and civil government.

(1) The history and civil government of the state of Colorado shall be taught in all the public schools of this state.

(2) In addition, the history and civil government of the United States, including the history, culture, and contributions of minorities, including, but not limited to, the Spanish Americans and the American Negroes, shall be taught in all the public schools of the state.

Section 22.1.106. Information as to honor and use of flag.

The commissioner of education shall provide the necessary instruction and information so that all teachers in the grade and high schools in the state of Colorado may teach the pupils therein the proper respect of the flag of the United States, to honor and properly salute the flag when passing in parade, and to properly use the flag in decorating and displaying.

Section 22.1.108. Federal constitution to be taught.

In all public and private schools located within the state of Colorado, there shall be given regular courses of instruction in the constitution of the United States.

Section 22.1.110. Effect of use of alcohol to be taught.

The nature of alcoholic drinks and controlled substances, as defined in section 12.22.303 (7), C.R.S. 1973, and special instruction as to their effects upon the human system in connection with the several divisions of the subject of physiology and hygiene shall be included in the branches of study taught in the public schools of the state. They shall be studied and taught, as thoroughly and in the same manner as other like

required branches are taught in said schools, by the use of text books designated by the board of directors of the respective school districts.

Section 22.1.111. Failure to teach temperance.

It is the duty of the proper officers in control of any public school to enforce the provisions of this section and section 22.1.110. Any such officer, school director, committee, superintendent, or teacher who refuses, fails, or neglects to comply with the requirements of said sections or to make proper provisions for the instruction required, in the manner specified by section 22.1.110, for all pupils in each school under his jurisdiction, shall be removed from office, and the vacancy shall be filled as in other cases.

CONNECTICUT

Section 10.16b. Prescribed courses of study.

(a) In the public schools the program of instruction offered shall include at least the following subject matter, as taught by legally qualified teachers, the arts; career education; consumer education; health and safety; language arts, including reading, writing, grammar, speaking and spelling; mathematics; physical education; science; social studies, including, but not limited to citizenship, economics, geography, government and history; and in addition, on at least the secondary level, one or more foreign languages and vocational education.

Section 10.17f. Required bilingual education. Adoption of regulations. Submission of plan.

(a) On or before November 1, 1978, and annually thereafter, the board of education for each local and regional school district shall ascertain, in accordance with regulations established by the state board of education, the eligible children in such school district and shall classify such children according to their dominant language.

(b) Whenever it is ascertained that there are in any public school within a local or regional school district twenty or more eligible children classified as dominant in any one language other than English, the board of education of such district shall provide a program of bilingual education for such eligible children for the school year next following.

Section 10.18. Courses in United States history, government and duties and responsibilities of citizenship.

(a) All high, preparatory, secondary and elementary schools, public or private, whose property is exempt from taxation, shall provide a program of United States history, including instruction in United States government at all levels, and in the duties, responsibilities, and rights of United States citizenship. No student shall be graduated from any such school who has not been found to be familiar with said subjects.

Section 10.19. Effect of alcohol, nicotine or tobacco and drugs to be taught.

The effect of alcohol, of nicotine or tobacco and of drugs, as defined in subdivision (17) of section 21a-240 on health, character, citizenship and personality development shall be taught every academic year to pupils in all grades in the public schools; and, in teaching such subjects, textbooks and such other materials as are necessary shall be used.

Section 10.76d. Duties and powers of boards of education to provide special education programs and services. State agency placements; apportionment of costs. Relationship of insurance to special education costs.

(a) In accordance with the regulations and procedures established by the commissioner and approved by the state board of education, each local or regional board of education shall provide the professional services requisite to identification of school age children requiring special education, identify each such child within its jurisdiction, determine the eligibility of such children for special education pursuant to sections 10.76a to 10.76h, inclusive, prescribe suitable educational programs for eligible children, maintain a record thereof and make such reports as the commissioner may require, provided, in the case of any meeting conducted by a planning and placement team established in accordance with regulations issued by the state board of education, the parent or guardian of a child for whom such meeting is conducted shall be given at least three school days prior notice of such meeting and shall have the right to be present at and participate in and to have advisers of their own choosing and at their own expense to be present at and to participate in all portions of such meeting at which an educational program for such child is discussed, developed or written. . .

Section 10.220. Duties of boards of education.

(a) Each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state as defined in section 10.4a and provide such other educational activities as in its judgment will best serve the interests of the school district; provided any board of education may secure such opportunities in another school district in accordance with provisions of the general statutes and shall give all the children of the school district as nearly equal advantages as may be practicable; . . .

DELAWARE

Section 101. Composition; appointment; term; qualifications; vacancies.

(a) The general administration and supervision of the free public schools and of the educational interests of the State shall be vested in a State Board of Education, hereafter in this chapter referred to as "the Board."

. . .

Section 122. Rules and regulations.

(a) The Board shall adopt rules and regulations, consistent with the laws of this State, for the maintenance, administration and supervision throughout the State of a general and efficient system of free public schools in accordance with this title, including the rules and regulations specified in subsection (b) of this section. Such rules and regulations, when prescribed and published, shall be binding throughout the State.

(b) The Board shall prescribe rules and regulations:

(1) Governing the hygienic, sanitary and protective construction of school buildings, the selection, arrangement and maintenance of school sites and grounds and the condemnation, for school purposes, of public school buildings that do not conform to such rules and regulations;

(2) Governing the protection of health, physical welfare and physical inspection of public school children in the State;

(3) Governing the grading and standardization of all public schools, including in such standards, equipment, number of teachers, years and grades of instruction offered;

(4) a. Governing the issuance of certificates and diplomas from the public schools of the State; and

b. Determining the minimum requirements for the presentation of any course or program of courses and for the issuing of academic, normal school, collegiate, professional or university degrees of any level by such institutions as are not otherwise authorized by Delaware law to determine such requirements;

(5) Determining the minimum courses of study for all public elementary schools and all public high schools of the State, including provisions that all elementary school subjects be taught in the English language in all schools in the State, and requiring that all pupils of all public elementary schools and all public high schools of the State be instructed in physiology and hygiene with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system;

(6) Governing the choice of textbooks and other instructional materials to be used in all public elementary and secondary schools of the State by adopting a set of criteria, which the reorganized school districts of the State shall apply to the selection of all such material prior to the acquisition or development and use of those materials. The decision of the State Board shall be final as to whether any textbooks or other instructional materials do, in fact, abide by the prescribed criteria;

. . .

Section 202. Free schools; ages; attendance within school district; nonresidents of Delaware.

(a) The public schools of this State shall be free to persons who are residents of this State and who are between the ages of 6 and 21 years when they are attending grades 1 through 12. . .

Section 203. Special schools.

The State Board of Education and the school board of any local reorganized school district, either separately or jointly, may establish special schools for children who are in need of education not provided for in regular classes or schools. Such schools may include, but are not limited to, schools for persons who are orthopedically handicapped, socially or emotionally maladjusted autistic, or mentally hadicapped, educable or trainable, or for persons who suffer hearing or speech impairment, or for persons who suffer hearing or speech impairment, or for persons who are truant or insubordinate.

FLORIDA

Section 232.2454. Uniform student performance standards, instruments, and assessment procedures.

(1) The State Board of Education shall adopt rules to provide for the development and periodic revision of uniform, statewide student performance standards, instruments, and assessment procedures to measure public-school-student performance in each major subject area or major area of study approved by the state board. . .

(5) Effective July 1, 1985, student performance standards must be incorporated in the pupil progress plan for students in grades 9 through 12 in order for the district to receive funding through the Florida Education Finance Program.

Section 232.246. General requirements for high school graduation.

(1) (a) For the 1984-1985 school years, successful completion of a minimum of 22 academic credits in grades 9 through 12 shall be required for graduation. These credits shall include a minimum of three credits in mathematics and three credits in science.

(b) Beginning with the 1986-87 school year and each year thereafter, successful completion of a minimum of 24 academic credits in grades 9 through 12 shall be required for graduation. The 24 credits shall be distributed as follows:

1. Four credits in English, with major concentration in composition and literature.

2. Three credits in mathematics.

3. Three credits in science, two of which must have a laboratory component. The State Board of Education may grant an annual waiver of the laboratory requirement to a school district that certifies that its laboratory facilities are inadequate, provided the district submits a capital outlay plan to provide adequate facilities and makes the funding of this plan a priority of the school board.

4. One credit in American history.

5. One credit in world history, including a comparative study of the history, doctrines, and objectives of all major political systems in fulfillment of the requirements of s. 233.064.

6. One-half credit in economics, including a comparative study of the history, doctrines, and objectives of all major economic systems. The Florida Council on Economic Education shall provide technical assistance to the department and local school boards in developing curriculum materials for the study of economics.

7. One-half credit in American government.

8. One-half credit in practical arts, vocational education or exploratory vocational education. Any vocational course as defined in s. 228.041(22) may be taken to satisfy the high school graduation requirement for one-half credit in practical arts or exploratory vocational education provided in this subparagraph.

9. One-half credit in performing fine arts to be selected from music, dance, drama, painting, or sculpture. A course in any art form, in addition to painting or sculpture, that requires manual dexterity may be taken to satisfy the high school graduation requirement for one-half credit in performing arts pursuant to this subparagraph.

10. One-half credit in life management skills to include consumer education, positive emotional development, nutrition, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

11. One-half credit in physical education to include assessment, improvement, and maintenance of personal fitness.

12. Nine elective credits. . .

232.2465. Florida Academic Scholars' Program.

For the purpose of recognizing and rewarding outstanding performance and academic achievement on the part of public school students, nonpublic school students, and developmental research school students, and developmental research school students, the Commissioner of Education shall award to each high school graduate who meets the requirements specified herein, and as further specified by the State Board of Education, a special certificate recognizing and designating the graduate as a Florida Academic Scholar. . .

GEORGIA

Section 20.2.1030. Public school course in health and physical education required.

The State Board of Education shall prescribe a course of study in health and physical education for all grades and grade levels in the public school system and shall establish standards for its administration. The course may include instruction in alcohol, smoking and health, and drug abuse education and may occupy periods totaling not less than 30 minutes per day in kindergarten through grade eight or equivalent grade levels.

. .

Section 20-2-280. General powers and duties of State Board of Education.

The State Board of Education shall adopt and prescribe all rules, regulations, and policies required by this article and shall adopt and prescribe such other rules, regulations, and policies as may be reasonably necessary or advisable for proper implementation, enforcement, and carrying out of this article and other public school laws or for assuring a more economical and efficient operation of the public schools of this state or any phase of public education in the public schools of this state. The state board shall establish and enforce minimum standards for operation of all phases of public school education in this state and for operation of all public elementary and secondary schools and local units of school administration in this state so as to assure, to the greatest extent possible, equal and adequate educational programs, curricula, offerings, opportunities, and facilities for all Georgia's children and youth and economy and efficiency in administration and operation of public schools and public school systems throughout the state. The state board shall have the power to perform all duties and to exercise all responsibilities vested in it by provisions of law for the improvement of public education in the public elementary and secondary schools of this state. All rules, regulations, policies, and standards adopted or prescribed by the state board in carrying out this article and other school laws shall, if not in conflict therewith, have the full force and effect of law.

Georgia Board of Education Graduation Requirements.

Enrolling ninth graders, beginning in the 1984-85 term, must meet the core curriculum requirements. Local school systems, by local school board policy, may begin on a student-by-student basis during the 1983-84 term.

CORE CURRICULUM

Required Areas of Study	Carnegie Units
English Language Arts4
Mathematics2
Science2
Social Studies.3
<p>One of these units must be from the American studies area (American history); one from citizenship education and the "Principles of Economics/Business/Free Enterprise" (one-half units for semester programs and one-third units for quarter programs); one of the units must be from the world studies area.</p>	
Health, Safety, and Physical Education.1
Computer Technology and/or Fine Arts and/or Vocational Education.1
	13
	8
	21

The Georgia Board of Education recommends that local boards of education prescribe a college preparatory program for those students who elect a rigorous academic experience. A formal seal of endorsement from the Georgia Board of Education will be awarded to those students who successfully complete the endorsed course of study.

CORE CURRICULUM FOR ENDORSEMENT

Required Areas of Study	Carnegie Units	Instructional Emphasis
English Language Arts	4	Grammar and usage Literature (American, English, and world) Advanced composition
Science	3	Physical science At least two laboratory courses from biology, chemistry, or physics
Mathematics	3	Courses in algebra, geometry, or more advanced courses
Social Science	3	Two of these units must be from the American studies area (one in American history/government; one from the areas of citizenship education and "Principles of Economics/Business/Free Enterprise") One of the units must be world history
Foreign Language	2	Skill building courses emphasizing speaking, listening, reading, and writing
Health, Safety, and Physical Education	1	Comprehensive health course focusing on decision making for life Physical education course focusing on physical fitness for lifetime sports
Computer Technology, and/or Fine Arts, and/or Vocational Education	1	Computer literacy or more advanced course Dance, drama, music, visual arts Agriculture education, business education, marketing and distributive education,

Required Areas of Study	Carnegie Units	Instructional Emphasis
		home economics education, industrial arts education, trade and industrial educa- tion
State Required Units	17	
Elective Units	<u>4</u>	
Total Units	21	

Local Authorities and Responsibilities

Local boards of education have the authority to exceed the state minimum criteria for graduation. Local boards of education have the responsibility to establish instructional support services and delivery services to uphold the multiple criteria for high school graduation:

To provide an ongoing guidance component beginning with the ninth grade for familiarizing the student with graduation requirements and for examining the likely impact of individual career objectives on the program of work he or she plans to follow; also, to provide annual advisement sessions to report progress and offer alternatives in meeting graduation requirements and career objectives.

To provide record keeping and reporting services that document student progress toward graduation and include information for the school, parents, and students.

To provide diagnostic and continuous evaluation services that measure individual student progress in meeting competency expectations for graduation.

To provide instructional programs, curriculum and planned course guides, and remedial opportunities to assist each student in meeting graduation requirements.

To provide appropriate curriculum and assessment procedures for students who have been identified as having handicaps which prevent them from meeting the prescribed competency performance requirements.

Georgia Code: 32-408 (1937, 1961); 32-609a (1974, 1975); 32-611a (1974, 1975); 32-653a (1974); 32-657a (1974); 32-660a (1974); 32-1901 (1971).

Section 20.2.1050. Silent prayer or meditation period authorized; nature of period.

(a) In each public school classroom, the teacher in charge may or, if so authorized or directed by the board of education by which he is employed shall, at the opening of school upon every school day, conduct a brief period of silent prayer or meditation with the participation of all the pupils therein assembled.

(b) The silent prayer or meditation authorized by subsection (a) of this Code section is not intended to be and shall not be conducted as a religious service or exercise but shall be considered as an opportunity for silent prayer or meditation on a religious theme by those who are so disposed or a moment of silent reflection on the anticipated activities of the day.

Section 20. 2.1051. Participation not to be regulated or required.

No teacher, principal, school board or any other person may require or prescribe any particular method or manner in which a child shall participate in any period of silent prayer or meditation, but each child shall be absolutely free to participate therein or not, in such manner or way as such child shall personally desire, consistent with his or her beliefs.

HAWAII

Section 298.2. Department powers and duties.

The department of education shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction. . . The schools may include high schools, kindergarten schools, schools or classes for pregrade education, boarding schools, evening as well as day schools. The department may also maintain classes for technical and other instruction in any school where there may not be pupils sufficient in number to justify the establishment of separate schools for such purposes. The department shall regulate the courses of study to be pursued in all grades of public schools and classify them by such methods as it shall deem proper; provided, that the course of and instruction in each school day shall be devoted to the oral expression, the written composition, and the spelling of the English language. . .

IDAHO

Section 33.118. Courses of study -- Textbooks.

The state board shall prescribe the minimum courses to be taught in all elementary and secondary schools, public, private and parochial, and shall cause to be prepared and issued, such syllabi, study guides and other instructional aids as the board shall from time to time deem necessary. The board shall also determine how and under what regulations textbooks shall be adopted for the public schools.

Section 33-1601. Instruction in English language.

Instruction in all subjects in the public schools, except that required for the teaching of foreign languages, shall be conducted in the English language. Provided, however, that for students where the language spoken in their home is not English, instruction may be given in a language other than English as necessary to allow for the transition of the students to the English language.

Section 33-1602. United States Constitution -- National flag and colors -- National anthem -- "America."

a. Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall prepare and adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given;

b. Instruction in the proper use of the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

Section 33-1604. Bible reading in public schools.

Selections from the Bible to be chosen from a list prepared from time to time by the state board of education, shall be read daily to each occupied classroom in each school district. Such reading shall be without comment or interpretation. Any question by any pupil shall be referred for answer to the pupil's parent or guardian.

Section 33-1605. Health and physical fitness -- Effects of alcohol, tobacco, stimulants and narcotics.

In all school districts there shall be instruction in health and physical fitness, including effects of alcohol, stimulants, tobacco and narcotics on the human system. The state board of education shall cause to be prepared such study guides, materials and reference lists as it may deem necessary to make effective the provisions of this section.

Section 33-1606. Arbor day.

A day during the month of April in each year, designated as Arbor Day, shall be observed by such exercises as will encourage the planting, preservation and protection of trees and shrubs.

Section 33-1607. Americanization education of adults.

The board of trustees of any school district is authorized to provide instruction for Americanization of adult residents of the state, including classes in reading, writing and speaking the English language; the principles of the Constitution of the United States, American history, and such other subjects as deemed desirable for making, of such adults, better American citizens. The expense of such instruction shall be a lawful charge against the maintenance and operation funds of the district.

Section 33-1608. Family life and sex education -- Legislative policy. The legislature of the state of Idaho believes that the primary responsibility for family life and sex education, including moral responsibility, rests upon the home and the church and the schools can only complement and supplement those standards which are established in the family. The decision as to whether or not any program in family life and sex education is to be introduced in the schools is a matter for determination at the local district level by the local school board of duly selected representatives of the people of the community. If such program is adopted, the legislature believes that:

- a. Major emphasis in such a program should be to assist the home in giving them the knowledge and appreciation of the important place the family home holds in the social system of our culture, its place in the family and the responsibility which will be there much later when they establish their own families.
- b. The program should supplement the work in the home and the church in giving youth the scientific, physiological information for understanding sex and its relation to the miracle of life, including knowledge of the power of the sex drive and the necessity of controlling that drive by self-discipline.
- c. The program should focus upon helping youth acquire a background of ideals and standards and attitudes which will be of value to him now and later when he chooses a mate and establishes his own family.

Section 33-1610. Involvement of parents and community groups. School districts shall involve parents and school district community groups in the planning, development, evaluation and revision of any instruction in sex education offered as a part of this new program.

Section 33-1611. Excusing children from instruction in sex education. Any parent or legal guardian who wishes to have his child excused from any planned instruction in sex education may do so upon filing a written request to the school district board of trustees and the board of trustees shall make available the appropriate forms for such request. Alternative educational endeavors shall be provided for those excused.

Section 33-1701. Driver training courses. In conjunction with its supervision of traffic on public highways, the department of law enforcement is directed to cooperate with the state board of education in its establishment of driver training courses in the public schools of the state.

Section 33-1702. Minimum standards for courses. The state board of education and the department of law enforcement shall cooperate in establishing, and amending as need arises, minimum standards for driver training programs reimbursable hereunder. Such standards shall require not less than thirty clock hours of classroom instruction and six hours behind the wheel practice driving; . . .

Section 33-2001. Responsibility of school districts for education of exceptional children.

Each public school district is responsible for and shall provide for the education and training of exceptional pupils resident therein. Every public school district in the state may provide instruction and training for persons to the age of twenty-one years who are exceptional children as defined in this act and by the state board of education. The state board of education shall through its department of education determine eligibility criteria for the exceptional children, qualifications of special teachers and special personnel, programs of instruction and minimum standards for classrooms and equipment to be used in administering the provisions of this act.

Section 33-2002. Exceptional child defined.

"Exceptional children" means those children whose handicaps, or whose capabilities, are so great as to require special education and special services in order to develop to their fullest capacity. This definition includes but does not limit itself to those children who are physically handicapped, mentally retarded, emotionally disturbed, chronically ill or who have perceptual impairment, visual or auditory handicap or speech impairment as well as those children who are so academically talented that they need special educational programs to achieve their fullest potential.

Section 33-2002A. Special services to be provided.

Special services for exceptional children may include those services provided by certified ancillary personnel which includes certified special education teachers and certified consulting teachers for students in approved special education programs, certified personnel serving as visiting teachers for homebound students, speech therapists, hearing therapists, school social workers, psychological examiners and school psychologists. Supervisors of special education programs and directors of special education programs whose major responsibilities are in the supervision and administration of special education programs may be considered as providing services under this act. Approved teacher aides may also be considered as providing services under this act.

"Ancillary personnel" are those persons who render special services to exceptional children in regular or in addition to regular or special class instruction as defined by the state board of education.

Section 33-2003. Responsibilities of state board of education.

The state board of education shall:

1. Establish in its department of education an administrative unit to administer the provisions of this act;
2. Establish programs, set standards, and employ such supervisory and clerical personnel as may be required to assist and direct school districts in educating and training exceptional children;
3. Establish a research program to evaluate on-going programs, assess the number and types of exceptional children, and make recommendations;

ILLINOIS

Section 27.1. Branches of education taught--Discrimination on account of sex.

Every school established under this act shall be for instruction in the branches of education prescribed in the qualifications for teachers and in such other branches of education prescribed in the qualifications for teachers and in such other branches, including vocal music and drawing as the school board, or the voters of the district at a regular scheduled election of the school board members, may prescribe. The school board may provide for instruction in instrumental music and other visual and performing arts in order to provide an educated and useful citizenry, encourage intellectual development, and foster appreciation for, and active participation in, music and the other arts. . .

Section 27.3. Patriotism and principles of representative government--Proper use of flag--Method of voting.

American patriotism and the principles of representative government, as enunciated in the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois, and the proper use and display of the American flag, shall be taught in all public schools and other educational institutions supported or maintained in whole or in part by public funds. No student shall receive a certificate of graduation without passing a satisfactory examination upon such subjects.

Instruction shall be given in all such schools and institutions in the method of voting at elections by means of the Australian Ballot system and the method of the counting of votes for candidates.

The Pledge of Allegiance shall be recited each school day by pupils in elementary educational institutions supported or maintained in whole or in part by public funds.

Section 27.6. Courses in physical education--Special activities.

Pupils enrolled in the public schools and State universities engaged in preparing teachers shall, as soon as practicable, be required to engage daily, during the school day, in courses of physical education for such periods as are compatible with the optimum growth and development needs of individuals at the various age levels except when appropriate excuses are submitted to the school by a pupil's parent or guardian or by a person licensed under the Medical Practice Act.

Special activities in physical education shall be provided for pupils whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act, prevents their participation in the courses provided for normal children.

Section 27.9.1. Sex education.

No pupil shall be required to take or participate in any class or course in comprehensive sex education if his parent or guardian submits written

objection thereto, and refusal to take or participate in such course or program shall not be reason for suspension or expulsion of such pupil. Nothing in this Section prohibits instruction in sanitation, hygiene or traditional courses in biology.

An opportunity shall be afforded to such parents or guardians to examine the instructional materials to be used in such class or course.

Section 27.12.1. Consumer education.

Pupils in the public schools in grades 9 through 12 shall be taught and be required to study courses which include instruction in the area of consumer education, including but not necessarily limited to installment purchasing, budgeting, comparison of prices and an understanding of the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system. The State Board of Education shall devise or approve the consumer education curriculum for grades 9 through 12 and specify the minimum amount of instruction to be devoted thereto.

Section 27.13.1. Conservation of natural resources.

In every public school there shall be instruction, study and discussion of current problems and needs in the conservation of natural resources, including but not limited to air pollution, water pollution, the effects of excessive use of pesticides, preservation of wilderness areas, forest management, protection of wildlife and humane care of domestic animals.

Section 27.21. History of United States.

History of the United States shall be taught in all public schools and in all other educational institutions in this State supported or maintained, in whole or in part, by public funds. The teaching of history shall have as one of its objectives the imparting to pupils of a comprehensive idea of our democratic form of government and the principles for which our government stands as regards other nations, including the studying of the place of our government in world-wide movements and the leaders thereof, with particular stress upon the basic principles and ideals of our representative form of government. The teaching of history shall include a study of the role and contributions of American Negroes and other ethnic groups including but not restricted to Polish, Lithuanian, German, Hungarian, Irish, Bohemian, Russian, Albanian, Italian, Czechoslovakian, French Scots, etc., in the history of this country and this State. No pupils shall be graduated from the eighth grade of any public school unless he has received such instruction in the history of the United States and gives evidence of having a comprehensive knowledge thereof.

Section 27.22. Required high school courses.

As a pre-requisite to receiving a high school diploma, each pupil entering the 9th grade in 1984-1985 and subsequent years must, in addition to other course requirements, successfully complete the following courses:

1. three years of language arts;
2. two years of mathematics, one of which may be related to computer technology.

3. one year of science;
4. two years of social studies, of which at least one year must be history of the United States or a combination of history of the United States and American government; and
5. one year chosen from (A) music, (B) art, (C) foreign language or (D) vocational education. . .

Section 27.23. Motor Vehicle Code.

The curriculum in all public schools shall include a course dealing with the content of Chapters 11, 12, 13, 15 and 16 of "The Illinois Vehicle Code", approved September 29, 1969, as amended, the rules and regulations adopted pursuant to those Chapters insofar as they pertain to the operation of motor vehicles and the portions of the "Litter Control Act" relating to the operation of motor vehicles. Instruction shall be given in safety education in each grade, 1 through 8 equivalent to 1 class period each week, and in at least 1 of the years in grades 10 through 12. The course of instruction required of each student at the high school level shall consist of a minimum of 30 clock hours of classroom instruction taught by a certified high school teacher who has acquired special qualifications as required for participation under the terms of Section 27.24.2 of this Act. . .The course of instruction given in grades 10 through 12 shall include an emphasis on the development of knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles including motorcycles insofar as they can be taught in the classroom.

Section 27.24.2. Driver education course.

Any school district which maintains grades 9 through 12 shall offer a driver education course in any such school which it operates. . .

INDIANA

Section 20.10.5.2 (28-5409). High schools--Courses of study.

The following enumerated studies shall be taught in all commissioned high schools throughout the state, together with such additional studies as any local board of education may elect to have taught in the high school: Provided, That such additions shall be subject to revision of the state board of education. Mathematics: commercial arithmetic, algebra, geometry. History: United States, ancient, medieval or modern. Geography: commercial or physical. English: composition, rhetoric. Literature: English, American. Language (foreign) : Latin or any modern foreign language. Science: biology, physics or chemistry. Civil government: general and state. Drawing. Music.

Section 20.10.8.1 (28-5419). Effect on humans of alcohol, tobacco and drugs--Duty to teach in grades four through eight--Textbooks--Pamphlets.

The nature of alcoholic drinks, tobacco, sedatives and narcotics and

their effects upon the human system shall be included in the subjects taught in each of the grades four through eight of the public schools of this state. Any textbook in physiology and hygiene for any of said grades, hereafter adopted by the commission on textbook adoption shall contain a chapter or section of not less than twenty pages, or an appendix of twenty or more pages attached thereto, or in pamphlet form, devoted to the nature of alcoholic drinks, tobacco, sedatives and narcotics and their effects upon the human system.

Section 20.10.9.1 (28-5410). Citizenship, character and moral instruction--Required in public, private, parochial and denominational schools.

It shall be the duty of each and every teacher who is employed to give instruction in the regular courses of the first twelve grades of any public, private, parochial or denominational school in the state of Indiana to so arrange and present his or her instruction as to give special emphasis to common honesty, morality, courtesy, obedience to law, respect for the national flag, the Constitution of the United States and the Constitution of the state of Indiana, respect for parents and the home, the dignity and necessity of honest labor and other lessons of a steadying influence, which tend to promote and develop an upright and desirable citizenry.

Section 20.10.10.1. (28-5413). Constitutions, state and federal in public, private and parochial schools--Courses required.

The teaching of the Constitution of the state of Indiana and of the United States of America, shall be included in the regular curriculum of the public, private and parochial schools of this state, beginning with the sixth grade of the public, private and parochial schools and continuing through each grade to and including the twelfth grade. The instruction given in the federal and state constitutions shall be given as may be prescribed by the state board of education. It shall be the duty of the officials having charge of the public, private and parochial schools of this state to make appropriate provision for the administration of this act.

Section 20.10.11.1 (28-5412). Constitutions, state and federal in public schools--Courses required--Rules and regulations--Penalties.

The teaching of the Constitution of the state of Indiana and of the United States shall be included in the regular curriculum of the public schools of this state and shall be taught as a regular branch of instruction. In the elementary schools, the teaching of the constitution shall be conducted as a part of the instruction in American history, and in the high schools as a part of the instruction in civics, or otherwise, as may be prescribed by rules and regulations which shall be prescribed by the state board of education. . .

Section 20.10.12.1. (28-5417). American history, government and election laws in schools--Courses required.

No one shall receive a diploma from an Indiana high school who has not completed a full year's two semester course in American history. All schools shall provide within the two weeks immediately preceding the day of any general, congressional or state election for all pupils in grades six through twelve inclusive, five full recitation periods of class discussion concerning our system of government in the state of Indiana and the United States, our methods of voting, our party structures, our election laws and the responsibilities of citizen participation in government and in elections.

Section 20.10.13.1. (28-5423). Safety education in public, private and parochial schools--One semester required in eighth grade.

In addition to the subjects now prescribed by law, there shall be taught in the eighth grade of all public, private and parochial schools of the state, a course of instruction in safety education for no less than one full semester. Such courses shall be offered each year beginning with the second semester of the school year 1937-38.

Section 20.10.14.1 (28-5414). Constitutions, state and federal in each high school--Course required--Contents--Textbooks.

There shall be included in the curriculum of each high school in the state of Indiana a study which shall be devoted to the Constitution of the United States of America and the Constitution of the state of Indiana which shall cover the historical, political, civic, sociological, economic and philosophical aspects of the subjects. The course of study and appropriate outlines therefore, shall be prescribed by the state board of education and the necessary textbook or books shall be prepared or adopted for the purpose of securing uniform instruction therein in the several high schools of the state.

Section 20.10.16.1. (28-5436). United States flag--Duty of trustees or commissioners.

It shall be the duty of the township trustees, boards of school trustees and boards of school commissioners of the various school corporations of this state to procure a United States flag of standard wool bunting, size four feet by six feet for each school under their supervision.

Section 20.10.16.2. (28-5437). Display.

The township trustees, boards of school trustees and boards of school commissioners of the various school corporations in this state shall cause the United States flag to be displayed upon every public school building under their control on every school day such school is in session: Provided, That the weather conditions permit. Such trustees and board shall establish rules and regulations for the proper care, custody and display of the flag and when for any cause it is not

displayed, it shall be placed conspicuously in the principal room or assembly hall of the school building.

Section 20.10.17.1. (28-5440). Singing "Star-Spangled Banner."

The state board of education shall require the singing of the "Star-Spangled Banner," in its entirety in the schools of the state of Indiana upon all patriotic occasions, and (that) the said board of education shall arrange to supply the words and music in sufficient quantity for the purposes indicated therein.

Section 20-10.1-4-1. Constitutions.

(a) In each of grades six through twelve, every public and nonpublic school shall provide instruction in the constitutions of Indiana and of the United States.

(b) In public elementary school instruction in the constitution shall be included as a part of American history, and in the public high schools, instruction in the constitution shall be included as a part of civics, or otherwise, as the state board of education may prescribe by rules. . .

(The 1984 amendment, effective June 30, 1984).

Section 20-10.1-4-2. Constitutions -- Interdisciplinary course.

Each public and nonpublic high school shall provide a required course, of not less than one year of school work, in the historical, political, civic, sociological, economic, and philosophical aspects of the constitutions of Indiana and of the United States. The state board of education shall prescribe this course and its appropriate outlines and shall adopt the (necessary) textbooks for uniform instruction. No high school student may receive a diploma unless he has successfully completed this interdisciplinary course.

(The 1984 amendment, effective June 30, 1984).

Section 20-10.1-4-3. System of government -- American history.

(a) Each public and nonpublic school shall provide within the two weeks preceding each general election for all students in each of grades six through twelve, five full recitation periods of class discussion concerning the system of government in Indiana and in the United States, methods of voting, party structures, election laws, and the responsibilities of citizen participation in government and in elections.

(b) No one may receive a high school diploma unless he has completed a two semester course in American history. . .

Section 20-10.1-4-4. Morals instruction.

Each public and nonpublic school teacher, employed to instruct in the regular courses of the first twelve grades, shall present his instruction with special emphasis on honesty, morality, courtesy, obedience to law, respect for the national flag, the constitutions of the United States and of Indiana, respect for parents and the home, the dignity and necessity of honest labor and other lessons of a steadying influence, which tend to promote and develop an upright and desirable citizenry. . .

Section 20-10.1-4-5. School corporation curriculum.

Each school corporation shall include in its curriculum the following studies:

- (1) Language arts, including English, grammar, composition, speech, and second languages.
 - (2) Mathematics.
 - (3) Social studies and citizenship, including the constitutions, governmental systems, and histories of Indiana and the United States.
 - (4) Sciences.
 - (5) Fine arts, including music and art.
 - (6) Health education, physical fitness, safety, and the effects of alcohol, tobacco, drugs, and other substances on the human body.
 - (7) Additional studies selected by each governing body, subject to revision by the state board of education.
- (1985 amendment, effective July 1, 1985).
Substituted subdivisions 1 through 7 for former subdivisions 1 through 11.

Section 20-10.1-4-6. Safety education. A course in safety education for no less than one full semester shall be taught in the eighth grade of each public and nonpublic school. . .
(The 1984 amendment, effective June 30, 1984).

Section 20-10.1-4-7. Hygiene.

The principles of hygiene and sanitary science shall be taught in the fifth grade of each public school and may be taught in other grades; this instruction must explain the ways of dangerous communicable diseases are spread and the sanitary methods for disease prevention and restriction. The state health commissioner and the state superintendent shall jointly compile a leaflet describing the principles of hygiene, sanitary science, and disease prevention. They shall supply these leaflets to each superintendent, who in turn shall supply them to each school. . .

Section 20-10.1-4-8. Diseases.

The trustee of each township and the board of school trustees of each city shall provide in each of their public schools for the illustrative teaching of the spread of disease by rats, flies, and mosquitoes, and its effects, and of disease prevention by the proper selection and consumption of food. . .

Section 20-10.1-4-9. Drugs.

- (a) In each of grades 4 through 8 and in at least one grade in grades 9, 10, 11, or 12, every governing body shall include instruction in the nature of alcoholic drinks, tobacco, sedatives, narcotics, and other mood altering drugs or chemicals, and their harmful effects upon the human system. Instruction must emphasize the harmful effects of the use of these substances and must utilize written materials designed to carry out this purpose. Each textbook of health or hygiene adopted by the state board of education shall contain material on these substances.
- (b) The state board of education shall include for high school students

a separate course on the effects of these drugs on the human system. The state board of education shall authorize high school credit of one semester for those students completing the course. . .
(The 1984 amendment, effective June 30, 1984).

Section 20-10.1-5.5-2. Program implementation.

(a) The superintendent of public instruction shall carry out a bilingual-bicultural program for improvement of educational opportunities for non-English dominant children. . .

IOWA

Section 257.25. Educational Standards.

In addition to the responsibilities of the state board of public instruction under other provisions of the Code, the state board of public instruction shall, except as otherwise provided in this section, establish standards for approving all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. A nonpublic school which offers only a prekindergarten program may, but shall not be required to, seek and obtain approval under this chapter. A list of approved schools shall be maintained by the department of public instruction. The state board shall promulgate rules to require that a multi-cultural, non-sexist approach is used by school districts. The educational program shall be taught from a multi-cultural, non-sexist approach. The approval standards established by the state board shall delineate and be based upon the educational program described below.

Section 257.25(3). Grades one through six.

The following areas shall be taught in grades one through six:

Art

English-language arts, including:

English, oral and written

Handwriting

Literature

Reading

Spelling

Health and physical education,

including the effects of alcohol, tobacco, drugs and poisons on the human body; the characteristics of communicable diseases.

Mathematics

Music

Science, including conservation of natural resources and environmental awareness.

Social studies, including geography, history of the United States and Iowa, cultures of other peoples and nations, and American citizenship, including the study of national, state and local government in the United States.

Traffic safety, including pedestrian and bicycle safety procedures.

Section 257.25(4). Grades seven and eight.

The following shall be taught in grades seven and eight as a minimum program;

Art

English-language arts, which shall include reading, spelling, grammar, oral and written composition, and may include other communication subjects.

Health and physical education, including the effects of alcohol, tobacco, drugs and poisons on the human body, the characteristics of communicable diseases, including venereal diseases and current crucial health issues.

Mathematics

Science, including conservation of natural resources and environmental awareness.

Social studies, cultures of other peoples and nations, and American citizenship.

Section 257.25(6a through 6j, 7). Grades nine, ten, eleven and twelve.

The minimum program for grades nine through twelve shall be:

Driver education

English-language arts, (four units).

Fine arts, units or partial units in the fine arts shall be taught which may include art, music and dramatics.

Foreign language (two units). The units of foreign language may be taught in alternate years. . .

Health education, including an awareness of physical and mental health needs, the effects of alcohol, tobacco, drugs and poisons on the human body, the characteristics of communicable diseases, including venereal diseases and current crucial health issues.

Mathematics (five units).

General mathematics (one unit)

Sequential mathematics (four units)

Occupational education. Five units of occupational education subjects, which may include, but shall not be limited to, programs, services and activities which prepare students for employment in office and clerical, trade and industrial, consumer and homemaking, agriculture, distributive and health occupations.

Physical education. All students physically able shall be required to participate in physical education activities during each semester enrolled in school. . .

Science (four units), including physics and chemistry; the units of physics and chemistry may be taught in alternate years. The units of science shall include instruction in environmental awareness and conservation of resources.

Social studies (four units). American history, American government, government and cultures of other peoples and nations, and general consumer education, family law, and economics, including comparative and consumer economics, shall be taught in the units but need not be required as full units. All students shall be required to take one unit of American history and one-half unit of the governments of Iowa and the United States, including instruction in voting statutes and

procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot.

Section 280.4. Medium of instruction.

The medium of instruction in all secular subjects taught in both public and nonpublic schools shall be the English language, except when the use of a foreign language is deemed appropriate in the teaching of any subject or when the student is non-English-speaking. When the student is non-English-speaking, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in the English language or a transitional bilingual program, until the student demonstrates a functional ability to speak, write, read and understand the English language. As used in this section, "non-English-speaking student" means a student whose native language is not English and whose inability or limited ability to speak, write or read English significantly impedes educational progress. . .

Section 280.8. Special education.

The board of directors of each public school district shall make adequate educational provisions for each resident child requiring special education appropriate to the nature and severity of the child's handicapping condition pursuant to rules promulgated by the department under the provisions of chapters 273 and 281.

Section 280.9. Career education.

The board of directors of each local public school district and the authorities in charge of each nonpublic school shall incorporate into the educational program the total concept of career education to enable students to become familiar with the values of a work-oriented society. Curricular and cocurricular teaching learning experiences from the pre-kindergarten level through grade twelve shall be provided for all students currently enrolled in order to develop an understanding that employment may be meaningful and satisfying. However, career education does not mean a separate vocational-technical program is required. A vocational-technical program includes units or partial units in subjects which have as their purpose to equip students with marketable skills. Essential elements in career education shall include, but not be limited to:

1. Awareness of self in relation to others and the needs of society.
2. Exploration of employment opportunities and experience in personal decision making.
3. Experiences which will help students to integrate work values and work skills into their lives.

Section 280.5. Display of United States flag and Iowa state banner.

The board of directors of each public school district and the authorities in charge of each nonpublic school shall provide and maintain a suitable flagstaff on each school site under its control, and the United States flag and the Iowa state banner shall be raised on all school days when weather conditions are suitable.

KANSAS

Section 72-1101. Required subjects in elementary schools.

Every accredited elementary school shall teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and of the state of Kansas, civil government and the duties of citizenship, health and hygiene, together with such other subjects as the state board may determine. The state board shall be responsible for the selection of subject matter within the several fields of instruction and for its organization into courses of study and instruction for the guidance of teachers, principals and superintendents.

Section 72-1103. Required courses of instruction; graduation requirements.

All accredited schools, public, private or parochial, shall provide and give a complete course of instruction to all pupils, in civil government, and United States history, and in patriotism and the duties of a citizen, suitable to the elementary grades; in addition thereto, all accredited high schools, public, private or parochial, shall give a course of instruction concerning the government and institutions of the United States, and particularly of the constitution of the United States; and no student who has not taken and satisfactorily passed such course shall be certified as having completed the course requirements necessary for graduation from high school.

KENTUCKY

Section 156.160. Requirements.

Upon the recommendation of the Superintendent of Public Instruction, the State Board of Education shall adopt rules and regulations relating to the minimum courses of study for the different grades and the minimum requirements for graduation from the courses offered in all common schools.

Section 158.295. Development of program to deal with delinquency, drug abuse, vandalism, absenteeism and other related acts of student behavior.

(1) It is the intent of the general assembly by this section to provide the means and initiate action whereby local school districts and the department of education may deal with delinquency, drug abuse, vandalism, absenteeism, truancy and other related acts of student behavior. Studies indicate that these are problems not only of local concern but of national concern. Therefore, the general assembly hereby directs the department

of education and the board for elementary and secondary education to develop a program designed to deal with these problems at the local level. This program may be within an existing division or in a new division created for this purpose. In carrying out this section, personnel of the department of education and personnel of the local school districts shall work with district court judges, social welfare agencies and other appropriate state and local agencies in human resources, vocational rehabilitation and any others pertinent to this section.

(2) In order to fulfill the intent of this section and to carry out the provisions contained therein, the state board for elementary and secondary education shall cause to be developed and approved appropriate regulations.

Section 158.410. Instruction.

Instruction on the effects of the use of alcohol and drugs and the problems which may result in the periodic, habitual, and chronic use of alcohol and drugs shall be conducted in the elementary and secondary schools. . .

Section 158.665. Minimum unit requirements for high school graduation.
 . . .requires that all secondary students devote sixty percent of their time to basic skills development in the curriculum areas of English, language arts, science, mathematics, and social studies. This regulation relates to the establishment of minimum requirements necessary for entitlement to a high school diploma.

Section 1. All students in the common schools and all students in the private or parochial schools which are accredited by the State Board of Education shall meet the following minimum credit requirements for high school graduation:

- (1) (a) Language arts - 3;
- (b) Social studies -2 (including one credit in U.S. History and, one credit in citizenship for students graduating in 1984-87, if a full-year citizenship course has not been successfully completed at the sixth, seventh, or eighth grade level. Successful completion of the citizenship requirement at the sixth, seventh, or eighth grade level shall not be substituted for either of the two social studies credits required for high school graduation. Any required citizenship credit at the high school level may be waived by the local board of education for students transferring into a school operated by that board, if a full-year citizenship course is no longer offered at the high school level by the pertinent school, but such a waiver shall not reduce the minimum number of total credit requirements for graduation. The Superintendent of Public Instruction also may grant a waiver for any high school citizenship requirement, upon written request of a local school district superintendent, for up to two graduating classes, as a result of moving the required citizenship course from the high school level to the sixth, seventh, or eighth grade, but such a waiver shall not reduce the minimum number of credits for graduation.)
- (c) Mathematics - 2;
- (d) Science - 2;
- (e) Health - 1/2;

- (f) Physical education - 1/2;
- (2) (a) Required - 10;
- (b) Elective - 8;
- (c) Total - 18.

Section 2. (1) Effective for students beginning the ninth grade after the 1982-83 school term, the following minimum credits shall be required for graduation in addition to the requirements set forth in Section 1 hereof;

- (a) One additional credit in language arts, making a total of four;
 - (b) One additional credit in mathematics, making a total of three;
- and

(c) All secondary school students in grades nine through twelve shall continue to develop competency in reading and writing, including grammar and spelling, with at least sixty percent of their time being devoted to basic skills development in the curriculum areas of English, language arts, science, mathematics and social studies. One additional credit from language arts, mathematics, science, social studies, or the approved vocational courses recognized by the "Program of Studies for Kentucky Schools, Grades K-12" as incorporating such basic skill curriculum areas shall be earned as one of the requisite elective courses.

(2) Students subject to the requirements of this section shall, thus, complete the following minimum credits:

- (a) Required - 12;
- (b) Elective - 8 (one of which shall be from the curriculum areas of language arts, mathematics, science, social studies, or approved vocational courses);
- (c) Total - 20.

(3) Relative to required credits for those subject to this section, students, except those repeating such courses and except as hereinafter set forth, shall have completed at least two credits in English, two credits in science, and two credits in mathematics at the ninth and tenth grade levels. Students transferring from schools, as defined in 704 KAR 3:307, and schools properly accredited under the laws of other states may be awarded ninth and tenth grade required credits under the procedures set forth in 704 KAR 3:307, and, if such is not possible, may be allowed to complete such required credits beyond the tenth grade level.

Section 3. Each student who satisfactorily completes the requirements of Section 1 or Section 2 of this regulation as applicable, and such credits and additional requirements as may be imposed by a local board of education shall be awarded a graduation diploma.

(1) Local boards of education may grant different diplomas to those student who complete credits above the minimum number of credits as established by the State Board of Education.

(2) The local school district board of education shall award the diploma.

Section 4. Nothing in this regulation shall be interpreted as prohibiting any local governing board, superintendent, principal or teacher from awarding special recognition to students.

Section 5. When the severity of an exceptional student's handicap(s) precludes a course of study leading to receipt of a diploma, an alternative program shall be offered. This program is based upon student needs, is specified in the individual education plan, and is to be reviewed at least annually. The student who completes such a course of study is entitled to recognition for achievement. This may be accomplished by the local school district board of education awarding a certificate.

Adopted: March 5, 1985.

LOUISIANA

Section 17:261. Constitution of the United States.

Regular courses of study on the Constitution of the United States shall be given, beginning with the eighth grade and continuing thereafter, in all the public schools, high schools, colleges, universities and other educational institutions supported wholly or in part with the public funds of the state or of any political subdivision thereof. . .

Section 17:262. Substance abuse programs and curricula.

A. The legislature recognizes that the use and abuse of mood-altering drugs and chemicals, including alcohol, among the children of school age in this state is a problem of serious concern and that the incidence thereof is increasing in all areas of the state. The uninformed use of these substances impairs the dependent person's abilities to perform in a healthy and normal manner his expected educational and social functions. The legislature further recognizes that dependence on drugs or alcohol is an illness that can be identified or diagnosed, arrested, and treated. The legislature further recognizes that substantial alleviation of these problems may result from the development and implementation of relevant prevention programs and curricula in the public school systems of this state.

B. The State Board of Elementary and Secondary Education shall include in the curriculum of all public schools in this state a program of substance abuse prevention, to include informational, effective, and counseling strategies, and information designed to reduce the likelihood that students will injure themselves or others through the misuse and abuse of chemical substances.

C. The state superintendent of education with the approval of the State Board of Elementary and Secondary Education shall develop, furnish to local school boards, and coordinate the implementation of programs and curricula designed to educate and develop life coping skills in an effort to reduce the use and abuse of chemical substances and for referral for counseling or treatment, as an alternative to other disciplinary procedures and sanctions provided by law. . .

Section 17:266. Kindness to dumb animals.

The state board of education may take such steps as it may think necessary and wise to provide for the teaching of kindness to dumb animals in the public schools, it being understood that the state superintendent of education, by the direction of the board, will issue such suggestions and furnish such information to the superintendents and teachers as the board may deem appropriate and necessary.

Section 17:267. Military science and tactics.

In addition to the branches in which instruction is given in the public schools of the state, at least one hour of instruction a week shall also be given to the male pupils thereof, whenever practicable, in all the grades higher than the eighth grade, in the principles and practice of military science and tactics, especially with reference to the duties of the soldier and object of general military interest.

Section 17:268. Declaration of Independence and Federalist Papers.

The Declaration of Independence of the United States of America shall be made a required course in all elementary schools throughout the state. The Federalist Papers shall be made a required course in all the high schools throughout the state.

Section 17:274. Essentials and benefits of free enterprise system; required course; authority to waive.

A. All public high schools shall give instruction on the essentials and benefits of the free enterprise system in which each student shall participate as a prerequisite to graduation, beginning with students who graduate during or after the 1977-78 school session. Instruction shall be given in accordance with the course of study prescribed by the State Board of Elementary and Secondary Education for at least one semester or quarter, equal to one-half unit of credit. The State Board of Elementary and Secondary Education shall prescribe suitable teaching materials for the instruction. . .

Section 17:275. Breast self-examination and cervical cancer tests.

All public junior and senior high schools shall provide instruction to all female students in the proper procedure for breast self-examination and the need for an annual Pap test for cervical cancer. Such instruction may be provided in the context of courses in the study of health, physical education, or such other appropriate curriculum or instruction period as may be determined by the respective local school boards. . .

Section 17: 274.1. Civics; required course.

All public high schools shall give instruction in a course in civics as a prerequisite to graduation, beginning with students who graduate during or after the 1977-78 school session. Instruction shall be given in accordance with the course of study prescribed by the State Board of Elementary and Secondary Education for at least two semesters, equal to one unit of credit. The State Board of Elementary and Secondary Education shall prescribe suitable teaching materials for the instruction.

Section 17:276. Physical education programs; secondary schools.
 Each city and parish public school system, in accordance with the mandates of federal law and regulations, shall offer, as part of the physical education program at the secondary schools in such school system, sexually segregated contact sports and sexually integrated noncontact sports. Students enrolling in such physical education programs shall have the option of participating in sexually segregated contact sports, sexually integrated noncontact sports, or both.

Section 17:286.4. Authorization for balanced treatment; requirement for nondiscrimination.

A. Commencing with the 1982-83 school year, public schools within this state shall give balanced treatment to creation-science and to evolution-science. Balanced treatment of these two models shall be given in classroom lectures taken as a whole for each course, in textbook materials taken as a whole for each course, in library materials taken as a whole for the sciences and taken as a whole for the humanities, and in other educational programs in public schools, to the extent that such lectures, textbooks, library materials, or educational programs deal in any way with the subject of the origin of man, life, the earth, or the universe. When creation or evolution is taught, each shall be taught as a theory, rather than as proven scientific fact.

B. Public schools within this state and their personnel shall not discriminate by reducing a grade of a student or by singling out and publicly criticizing any student who demonstrates a satisfactory understanding of both evolution-science or creation-science and who accepts or rejects either model in whole or part.

C. No teacher in public elementary or secondary school or instructor in any state-supported university in Louisiana, who chooses to be a creation-scientist or to teach scientific data which points to creationism shall, for that reason, be discriminated against in any way by any school board, college board, or administrator.

MAINE

Section 20-A:4601. Basic Curriculum.

1. Required courses in American and Maine history. The following courses shall be required.

A. American history and civil government, including the Constitution of the United States, the Declaration of Independence, the importance of voting and the privileges and responsibilities of citizenship, shall be taught in and required for graduation from all elementary and secondary schools both public and private.

B. A course in the history, including the Constitution of Maine, Maine geography and the natural and industrial resources of Maine shall be

taught in at least one grade from grade 7 to grade 12, in all schools, both public and private.

2. English. Four years of English shall be required for graduation from a secondary school.

3. Required programs in physical education, safety and health. Programs in physical education, safety and health shall be provided and required for all students in public elementary and secondary schools. . .

Section 20-A:4602. Languages of instruction.

Languages of instruction to be used in all schools shall be as follows:

1. Basic language. The basic language of instruction in all schools, public and private, shall be the English language, except as provided in this section.

2. Foreign language instruction. A school may provide courses in foreign languages that are taught in those languages.

3. Bilingual education. Subject to the annual approval of the commissioner, the school board of an administrative unit having students from non-English-speaking families may provide programs involving bilingual education techniques. These techniques shall be subject to certification by the state board in both course content and language of instruction.

4. Transitional instruction. A school board may provide transitional instruction programs. . .

Section 20-A:4805. Other special observances.

1. Flag. It shall be the duty of instructors to impress upon the youth by suitable references and observances the significance of the flag, to teach them the cost, the object and principal of our government, the inestimable sacrifices made by the founders of our Nation, the important contribution made by all who have served in the armed services of our country since its inception and to teach them to love, honor and respect the flag of our country that costs so much and is so dear to every true American citizen.

2. Period of silence. The school board of a school administrative unit may require, at the commencement of the first class of each day in all grades in all public schools in their unit, that the teacher in charge of the room in which each class is held shall announce that a period of silence shall be observed for reflection or meditation and during that period silence shall be maintained and no activities engaged in.

MARYLAND

Section 7-104. Daily period of silent meditation.

(a) Silent meditation. Principals and teachers in each public elementary and secondary school in this State may require all students to be present and participate in opening exercises on each morning of a school day and to meditate silently for approximately 1 minute.

(b) Praying or reading holy scripture permitted. During this period, a student or teacher may read the holy scripture or pray.

Section 7-105. Display of flag; patriotic exercises.

(a) Purpose. This section is enacted so that the love of freedom and democracy, shown in the devotion of all true and patriotic Americans to their flag and country, shall be instilled in the hearts and minds of the youth of America.

(b) School flags. Each county board shall:

- (1) Require the display of an American flag on the site of each public school building in its county while the school is in session;
- (2) Buy all necessary flags, staffs, and appliances for the flags;
- (3) Adopt rules and regulations for the proper custody, care, and display of the flag.

(c) Classroom flags; flag salute and pledge of allegiance. Each county board shall:

- (1) Provide each public school classroom with an American flag;
 - (2) Prepare a program for each public school classroom for the beginning of each school day that provides for the salute to the flag and other patriotic exercises that are approved by the United States government; and
 - (3) Require all students and teachers in charge to stand and face the flag and while standing give an approved salute and recite in unison the pledge of allegiance as follows: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."
- (d) Exception from flag salute or pledge requirement. Any student or teacher who wishes to be excused from the requirements of subsection (c) (3) of this section shall be excused.

(e) Other patriotic exercises. Each county board may provide for any other patriotic exercises it considers appropriate under the regulations and instruction that best meet the requirements of the different grades in the schools.

(f) Disrespect in violation of section. Any individual who commits an act of disrespect, either by word or action, is in violation of the intent of this section.

Section 7-401. School health program.

(a) Duty of county board. With the assistance of the county health department, each county board shall provide:

- (1) Adequate school health services;
- (2) Instruction in health education; and
- (3) A healthful school environment. . .

Section 7-407. Physical education program.

Each public school shall have a program of physical education that is given in a planned and sequential manner to all students, kindergarten through grade 12, to develop their good health and physical fitness and improve their motor coordination and physical skills.

Section 7-408. Safety education program.

Each public school shall have a program of safety education that is organized and administered under the bylaws, rules, and regulations of the State Board.

Section 7-409. Drug education program.

(a) State Board to implement program. The State Board shall develop and implement a program of drug education in the public schools.

(b) Teachers to be trained in drug education. (1) This program shall be started before the sixth grade in each public school by teachers who are trained in the field of drug education. (2) The State Board shall establish standards for determining how a teacher is considered to be "trained in the field of drug education" for the purposes of this section.

(c) Coordination with other State agencies. This program shall be coordinated with other State agencies that are responsible for drug abuse education and control.

Section 7-411. Alcohol abuse program.

(a) State Board to implement program. (1) By the fall of 1978, the State Board shall develop and implement a program of health education that deals specifically with the abuse of alcohol. (2) This program may be included in the drug education program under statute 7-409 of this subtitle.

(b) Coordination with other State agencies. This program shall be coordinated with other State agencies that are responsible for alcohol abuse education and control.

Section 7-412. Driver education program.

(a) Driver education course may be offered. (1) Each county board may offer instruction in the safe operation of a motor vehicle to high school students who are 15 years old or older. . . Each county board shall determine whether the course is an elective or a required course. . .

MASSACHUSETTS

Section 71:1A. Observance of Silent Meditation Period.

At the commencement of the first class of each day in all grades in all public schools the teacher in charge of the room in which each such class is held shall announce that a period of silence not to exceed one minute in duration shall be observed for meditation or prayer, and during any such period silence shall be maintained and no activities engaged in.

Section 71:2. Teaching of American History, Civics, Local History, etc.

In all public elementary and high schools American history and civics, including the constitution of the United States, the declaration of independence and the bill of rights, and in all public schools the constitution of the commonwealth and local history and government, shall be taught as required subjects for the purpose of promoting civic service and a greater knowledge thereof, and of fitting the pupils, morally and intellectually, for the duties of citizenship.

Section 71:3. Military Drill, Gymnastics, etc.

Physical education shall be taught as a required subject in all grades for all students in the public schools for the purpose of promoting the physical well-being of such students. Instruction in physical education may include calisthenics, gymnastics and military drill; but no pupil shall be required to take part in any military exercise if his parent or guardian is of any religious denomination conscientiously opposed to bearing arms, or is himself so opposed, and the school committee is so notified in writing; and no pupil shall be required to take part in physical education exercises if a licensed physician certifies in writing that in his opinion such physical education exercises would be injurious to the pupil.

Section 71:13. Addition of Courses in High Schools.

In every public high school having not less than one hundred and fifty pupils, any course not included in the regular curriculum shall be taught if parents or guardians of not less than thirty pupils or of a number of pupils equivalent to five per cent of the pupil enrollment in high school, whichever is less, request in writing the teaching thereof; provided said request is made and said enrollment is completed before the preceding August first; provided, further, a qualified teacher is available to teach the course; and provided, further, that the approval and implementation of said course is voted by two-thirds or more of the full membership of the school committee. The teaching of any course as provided by this section may be discontinued if the enrollment of pupils falls below fifteen. Such courses as may be taught under this section shall be given the same academic credit necessary for a high school diploma as is given to similar courses taught in said public high school, provided that the school committee shall make a determination as to the credit equivalency of such course prior to its being offered.

MICHIGAN

Section 380.1282. Determination of Courses of Study.

Every board of education shall establish and carry on the grades, schools, and departments it deems necessary or desirable for the maintenance and improvement of the schools, determine the courses of study to be pursued, and cause the pupils attending school in the district to be taught in the schools or departments that it deems appropriate.

Section 380.1166. Government and Civics Curriculum Courses.

Regular courses of instruction in the Constitution of the United States and of the State of Michigan, and in the history and present form of government of the United States, of Michigan, and of its political subdivisions are required in all public and nonpublic schools. This instruction shall begin no later than the opening of the 8th grade, except in schools maintaining a junior high school, in which case it may begin in the 9th grade and continue in the high school.

All Michigan high schools offering 12 grades shall provide a one-semester course in civics of 5 periods per week. The course shall cover the form and function of federal, state, and local governments, with special emphasis on the rights and responsibilities of citizens. A diploma shall not be issued to a pupil who has not successfully completed this course, unless the pupil has enlisted or has been inducted into military service. Civics is the only course required of students for graduation under state law.

Section 380.1169. Communicable Diseases.

Instruction about dangerous communicable diseases and the best methods for their restriction and prevention shall be taught in every Michigan public school.

Section 380.1170. Physiology and Hygiene.

Instruction shall be given in physiology and hygiene with special reference to substance abuse, including the misuse of tobacco, alcohol and drugs, and their effect upon the human system. A pupil shall be excluded from attending these classes if his or her parents or guardians provide a written statement indicating that such instruction is in conflict with sincerely held religious beliefs.

Sections 380.1502 and 380.1503. Health and Physical Education.

Health and physical education shall be provided in all public schools and all pupils shall take the course in physical education if they are physically fit and able to participate. School districts with a student population of over 1,000 shall engage competent instructors and provide necessary places and equipment for instruction and training in health and physical education.

Sections 380.1701 to 380.1766. Special Education Programs and Services for Handicapped Persons.

Special education programs and services designed to develop the maximum potential of each handicapped person in the district between birth and 26 years of age shall be provided. These programs shall be provided by individual local school districts, or under contract with an intermediate school district or another local school district, or any agency approved by the State Board of Education for delivery of an ancillary professional special education service.

Sections 380.1152 to 380.1158. Bilingual Instruction.

Every school district with an enrollment of 20 or more pupils of limited English-speaking ability in a language classification in grades K-12 shall establish and operate a bilingual instruction program. Bilingual instruction programs also may be operated in districts with fewer than 20 pupils of limited English-speaking ability. A qualifying pupil shall be enrolled in a bilingual instruction program for 3 years or until the pupil achieves a level of proficiency in English language skills sufficient to receive an equal educational opportunity in the regular school program, whichever occurs first.

A school district may pay tuition and transportation for resident pupils of limited English-speaking ability to enroll in a program in another school district. An intermediate school board shall determine, based on the total number of eligible children in the constituent districts whether or not to establish an intermediate bilingual instruction support program.

Section 380.1151. Basic Language of Instruction.

English shall be the basic language of instruction in all public and nonpublic schools. Instruction, however, may be given in foreign languages, in addition to the regular courses of study.

Section 380.1173. Instructional Materials.

School authorities, in selecting instructional materials for use in a district, shall give special attention and consideration to the degree to which the materials include achievements and accomplishments of ethnic and racial groups, past and present, and shall select only materials which accurately and positively portray the varied roles of men and women in our pluralistic society. The State Board of Education is required to biennially survey instructional materials to determine the degree to which they fairly include recognition of such achievements and accomplishments.

Sections 388.1311 to 388.1319. Career Education.

Each local educational agency shall establish a comprehensive career education plan and performance objectives.

MINNESOTA

Section 126.02. Physical and health education.

There shall be established and provided in all the public schools of this state, physical and health education, training, and instruction of pupils of both sexes. Every pupil attending any such school, insofar as he or she is physically fit and able to do so, shall participate in the physical training program. Suitable modified courses shall be provided for pupils physically or mentally unable or unfit to take the courses prescribed for normal pupils. No pupil shall be required to undergo a physical or medical examination or treatment if the parent or legal guardian of the person of such pupil shall in writing notify the teacher or principal or other person in charge of such pupil that he objects to such physical or medical examination or treatment; . . .

Section 126.03. Instruction in morals.

Instruction shall be given in all public schools in morals, in physiology and hygiene, and in the effects of narcotics and stimulants.

Section 126.07. Instruction, use of English language.

The books used and the instruction given in public schools shall be in the English language, but any other language may be used by teachers

in explaining to pupils who understand such language the meaning of English words; provided that in the case of a program for children of limited English speaking ability, instructions and books may be in the primary language of the children of limited English speaking ability. . .

Section 126.06. Declaration of Independence and Constitution.

In the eighth grade and in the secondary school grades of all public schools and in the corresponding grades in all other schools within the state, and in the educational departments of state and municipal institutions, there shall be given regular courses of instruction in the Declaration of Independence and the Constitution of the United States, to the extent to be determined by the commissioner.

Section 126.08. Patriotic exercises.

In all of the schools in this state it shall be the duty of the superintendent or teachers in charge of such schools to teach and require the teaching therein, on at least one day out of each week, of subjects and exercises tending and calculated to encourage and inculcate a spirit of patriotism in the students.

Such exercises shall consist of the singing of patriotic songs, readings from American history and from the biographies of American statesmen and patriots, and such other patriotic exercises as the superintendent or teachers of such schools may determine.

The time to be spent thereon on each of these days shall not exceed one-half hour.

Section 126.111. Environmental conservation education.

Subdivision 1. The state department of education with the cooperation of the department of natural resources shall prepare an interdisciplinary program of instruction for elementary and secondary schools in the field of environmental conservation education. . .

Section 126.35. Bilingual education programs.

Subdivision 1. Instruction described. Bilingual education programs are programs of instruction enrolling children of limited English speaking ability in elementary and secondary schools in which:

(a) There is instruction given in and study of both English and the primary language of the children of limited English speaking ability, in all courses or subjects of study, to the extent necessary to allow the children to progress effectively through the educational system and to attain the basic skills so that they will be able to perform ordinary classwork successfully in English; . . .

Section 126.46. Declaration of policy.

The legislature finds that a more adequate education is needed for American Indian pupils in the state of Minnesota. Therefore, pursuant to the policy of the state to ensure equal educational opportunity to every individual, it is the purpose of sections 126.45 to 126.55 to provide for the establishment of American Indian language and culture education programs.

MISSISSIPPI

Section 37-13-4. Voluntary participation in prayer.

It shall be lawful for any teacher in any of the schools of the state which are supported, in whole or in part, by the public funds of the state, to permit the voluntary participation by students or others in prayer. Nothing contained in this section shall authorize any teacher or other school authority to prescribe the form or content of any prayer.

Section 37-13-7. Pledges of allegiance to United States and Mississ-
ippi flags.

(1) The boards of trustees of the public schools of this state shall require the teachers under their control to have all pupils repeat the oath of allegiance to the flag of the United States of America at least once during each school month, such oath of allegiance being as follows: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

(2) The official pledge of the State of Mississippi shall read as follows:

"I salute the flag of Mississippi and the sovereign state for which it stands with pride in her history and achievements and with confidence in her future under the guidance of Almighty God."

The pledge of allegiance to the Mississippi flag shall be taught in the public schools of this state, along with the pledge of allegiance to the United States flag.

Section 37-13-21. Health education program.

The state board of health and the various county health departments are hereby authorized and empowered to establish and provide for health education programs in the public schools of this state and to employ county health educators for such purpose. . .

Section 37-13-52. Economic education program--declaration of purpose.

The purpose of sections 37-13-52 to 37-13-57 is to insure the development of a comprehensive economic education program for grades one through twelve in the schools of this state. This would involve the inclusion of basic economic principles into the social studies curriculum providing a balance with the basic principles of the other social sciences.

Section 37-13-53. Economic education program--declaration of legisla-
tive intent.

It is the legislative intent that this program shall teach a positive understanding of the American Economy and the free enterprise system, how it functions and how the individual can function effectively within our economy as a consumer, worker and voter. (Repealed after July , 1984.)

Section 37-13-58. Career education--duties of state department of
education; office of career education.

(1) The state department of education is hereby designated as the state agency responsible for the administration and supervision of the career

education concept as an educational innovation in the State of Mississippi. It is the intent of the legislature that all funds made available to the State of Mississippi, for the purpose of enhancing career education, be administered by the state department of education. . .

Section 37-17-6. Establishment and implementation of permanent performance based accreditation system; creation of performance-based school assessment task force.

. . .(4) It shall be the duty of the task force to undertake a study and to propose a plan to establish guidelines and criteria for a performance-based school accreditation system and to report to the commission on school accreditation on or before April 30, 1984, on such a study and plan, and it shall further be the duty of the task force to conduct a study and to make recommendations to the state board of education through the commission on school accreditation concerning curriculum and courses of study to be used in the public schools that are best designed to prepare the state's children and youth to be productive, informed and creative citizens, workers and leaders. Such a study and plan should take into account, but not necessarily be limited to, the following factors relating to performance-based school accreditation:

- (a) The role and behavior of the school principal;
- (b) The amount of time given to instruction (hours per day and days per year), especially in fundamentals;
- (c) The availability and quality of preschool programs and the level of preparedness of children who have been in those programs;
- (d) School-wide student discipline practices and policies;
- (e) The emphasis placed on acquisition of basic skills;
- (f) The commitment to bringing all children to a minimum level of achievement;
- (g) The nature and quality of feedback given to students about their level of performance and the amount of reinforcement given to learning;
- (h) Teacher preparedness as reflected in lesson plans, learning objectives, assessment criteria, and materials;
- (i) Classroom decorum, discipline and management;
- (j) The use of mastery learning techniques, direct instruction and active teaching in each classroom;
- (k) The amount of time on task in all learning situations, and methods of assessing time on task as a measure of teacher effectiveness;
- (l) The availability and use of diagnostic measurements in grade placement, assessment of a need for compensatory work or remediation, and academic achievement;
- (m) The proper sequencing of subject matter from class to class and grade level to grade level;
- (n) The coordination of curriculum throughout the system so that teachers know what has been taught in previous grades and what will be taught in subsequent grades; . . .

MISSOURI

Section 170.011. Courses in the Constitutions of the United States and of Missouri, and in American history and institutions required--penalty.

1. Regular courses of instruction in the Constitution of the United States and of the state of Missouri and in American history and institutions shall be given in all public and private schools in the state of Missouri, except privately operated trade schools, and shall begin not later than the seventh grade and continue in high school, college and university courses to an extent determined by the state commissioner of education.

2. No pupil shall receive a certificate of graduation from any public or private school other than private trade schools unless he has satisfactorily passed an examination on the provisions and principles of the Constitution of the United States and of the state of Missouri, and in American history and American institutions. A student of a college or university, who, after having completed a course of instruction prescribed in this section and successfully passed an examination on the United States Constitution, and in American history and American institutions required hereby, transfers to another college or university, is not required to complete another such course or pass another such examination as a condition precedent to his graduation from the college or university.

3. The state commissioner of education shall make arrangements for carrying out the provisions of this section and prescribe a list of suitable texts adapted to the needs of the school and college grades. . .

Section 170.031. Physiology texts to contain chapter on dental hygiene.

One or more chapters on dental hygiene is required in all textbooks on physiology used in the public schools of the state of Missouri. The chapters shall convey the proper knowledge to the pupil on the care, function and relation of the teeth to the general health. . .

MONTANA

Section 20-7-111. Instruction in public schools.

The board of public education shall define and specify the basic educational program for pupils in public schools, and such program shall be set forth in the standards of accreditation. Other instruction may be given when approved by the board of trustees.

NEBRASKA

Sections 005.01B1 to 005.01B8. Elementary school curriculum.

The elementary school shall provide instruction in reading, language arts, mathematics, social studies, science, health, physical education,

art, and music.

Section 006.01B. The instructional program in high school.

The instructional program in the high school shall include as a minimum the following subject fields for the number of instructional units shown in each:

Language Arts - 40 instructional units. This shall include courses in English and may also include courses in speech, journalism, and foreign language.

Social Science - 30 instructional units.

Mathematics - 20 instructional units. Courses in advanced high school mathematics such as advanced algebra, geometry, or trigonometry shall be offered at least every other year.

Science - 20 instructional units. A course shall be offered each year in biology and each year in chemistry or physics. Chemistry and physics shall be offered at least every other year.

Vocational Education and/or Practical Arts - 60 instructional units selected from any of the following areas:

Vocational Agriculture/Agribusiness

Business and Office Education

Distributive Education

Health Occupations Education

Home Economics Education

Trade and Industrial Education

Industrial Arts

Diversified Occupations

Career Education

Section 006.01B6. Personal Health and Physical Fitness.

10 instructional units required.

Section 006.01B7. Music Curriculum.

Music - 4 instructional units. Instruction shall be in instrumental and/or vocal music.

Section 006.01B8. Art Curriculum.

Art - 4 instructional units.

Section 006.01B9. Computer Education.

Provision shall be made for instructing students in the use and application of computers.

NEVADA

Section 385.110. Board to prescribe courses of study for public schools.

The state board of education shall prescribe and cause to be enforced the courses of study for the public schools of this state; provided:

1. That high schools may have modified courses of study, subject to the approval of the state board of education; and
2. That any high school offering courses normally accredited as

being beyond the level of the 12th grade shall, before offering such courses, have them approved by the state board of education.

Section 388.075. Period of silence.

Every school district shall set aside a period at the beginning of each school day, during which all persons must be silent, for voluntary individual meditation, prayer or reflection by pupils.

Section 389.015. Proficiency examinations: Requirements.

1. The board of trustees of each school district shall administer examinations in all public schools within its district to determine the proficiency of pupils in:

- (a) Reading;
- (b) Writing; and
- (c) Mathematics.

The examinations shall be administered before the completion of grades 3, 6, 9 and 12. . .

Section 389.020. Instruction in American government.

1. In all public schools, the Nevada girls training center, and the Nevada youth training center, instruction must be given in American government, including but not limited to the essentials of the Constitution of the United States, the constitution of the State of Nevada, the origin and history of the constitutions and the study of and devotion to American institutions and ideals.

Section 389.030. Instruction in American history.

American history, including the history of the State of Nevada must be taught in all of the public schools in the State of Nevada for a period of at least 1 year.

Section 389.035. Satisfactory completion of courses in American government, American history prerequisite to graduation.

No pupil in any public high school, the Nevada girls training center or the Nevada youth training center may receive a certificate or diploma of graduation without having passed a course in American government and American history as required by NRS 389.020 and 389.030.

Section 389.040. Patriotic exercises.

There shall be at least 1 hour set aside each school week in all graded schools and high schools in the State of Nevada for the purpose of holding patriotic exercises.

Section 389.050. High school instruction in citizenship, physical training.

1. All school officers in control of public high schools in the state shall provide for courses of instruction designed to prepare the pupils for the duties of citizenship, both in time of peace and in time of war. . .

(a) Physical training designed to secure the health, vigor and physical soundness of the pupil.

(b) Instruction relative to the duties of citizens in the service of their country. It shall be the aim of such instruction to inculcate a love of country and a disposition to serve the country effectively and loyally.

2. Boards of trustees of school districts offering a 4-year high school course are empowered to employ teachers of physical training who shall devote all or part of their time to physical instruction for both boys and girls.

Section 389.090. Automobile driver education: Regulations; purposes; conduct; insurance.

1. The state board of education shall adopt regulations governing the establishment, conduct and scope of automobile driver education in the public schools of this state.

2. The aims and purposes of automobile driver education are to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles.

3. The board of trustees of a school district may establish and maintain automobile driver education classes during regular semesters and summer sessions and during the regular school day and at times other than during the regular school day for:

(a) Pupils enrolled in the regular full-time day high schools in the school district.

(b) Pupils enrolled in summer classes conducted in high schools in the school district.

4. A board of trustees maintaining courses in automobile driver education shall insure against any liability arising out of the use of motor vehicles in connection with such courses. The cost of such insurance shall be paid from available school district funds.

5. Automobile driver education shall be provided by boards of trustees of school districts in accordance with regulations of the state board of education and may not be duplicated by any other agency, department, commission or officer of the State of Nevada.

Section 389.120. Environmental education: Counseling programs.

All persons responsible for guidance and counseling programs in secondary schools shall provide students with information concerning careers and further education in the area of environmental quality.

Section 389.130. Environmental education: Outdoor education and camping programs.

1. Each school district shall investigate the feasibility of programs of outdoor environmental education and camping for its students.

2. Such investigations must be coordinated with the superintendent of public instruction.

Section 389.060. Instruction in physiology and hygiene.

Physiology and hygiene shall be taught in the public schools of this state, and special attention shall be given to the effects of controlled substances as defined in chapter 453 of NRS upon the human system.

Section 389.080. Instruction in thrift. All teachers in the public schools of this state shall teach, in their respective schools, lessons on the subject of thrift. The lessons shall emphasize:

1. The importance of industry, production, earning, wise spending, regular saving, safe investment and government taxes.
2. The importance of thrift in time and material.

Section 389.110. Environmental education: Instruction in environmental protection, conservation of resources.

Instruction concerning the preservation and protection of our environment, the principles of ecology and the principles of conservation of our natural and human resources shall be included in the curriculum of all elementary and secondary schools of the state.

NEW HAMPSHIRE

Section 189:10. Studies.

The school board shall see that the studies prescribed by the state board are thoroughly taught, especially physiology and hygiene insofar as it relates to the effect of alcohol and other drugs and venereal diseases on the human system.

Section 189: 11 Instruction in National and State History and Government.

In all public and private schools in the state there shall be given regular courses of instruction in the history, government and constitutions of the United States and New Hampshire, including the organization and operation of New Hampshire municipal, county and state government and of the federal government. Such instruction shall begin not later than the opening of the eighth grade and shall continue in high school as an identifiable component of a year's course in the history and government of the United States and New Hampshire.

Section 189:11-a. Food and Nutrition Programs.

. . .III. The state board shall prepare and distribute a curriculum for nutrition education and such curriculum shall be integrated into the regular courses of instruction for kindergarten and grades one through 12 during the school year. . .

Section 189:19. English Required.

In the instruction of children in all schools, including private schools, in reading, writing, spelling, arithmetic, grammar, geography, physiology, history, civil government, music, and drawing, the English language shall be used exclusively, both for the purposes of instruction therein

and for purposes of general administration. Educational programs in the field of bilingual education shall be permitted under the provisions of this section with the approval of the state board of education and the local school district.

Section 189:23. --Distribution.

The state board of education is hereby directed to distribute copies of said constitution and election laws to all teachers of history and civics in the upper grades of elementary schools and to teachers of United States history in junior and senior high schools to be used by them in instructing their pupils relative to the laws governing election and voting.

NEW JERSEY

Section 6:8-42. Specific requirements -high school.

1. One credit year of communication for each year of enrollment up to four years.
 - Any set of courses in the Fall Report 1400 series of English courses.
 - Up to two years of communication requirements may be fulfilled in vocational education courses provided that the areas counted are demonstrably communications oriented.
2. Two credit years of computation.
 - Any set of courses in the Fall Report 1900 series (mathematics).
 - Up to one year of computation requirements may be fulfilled in vocational education courses provided that the areas counted are demonstrably computation oriented.
3. Two credit years of social studies and history as required by NJSA 18A:35-1 et seq.
 - This requirement is unchanged from previous practices.
 - NJSA 18A:35-2 expands NJSA 18A:35-1 to allow social studies components within the history courses (see Appendix G).
4. One credit year of natural or physical science.
 - Any course in the Fall Report 2200 series.
5. One credit year of physical education, health and safety for each year of enrollment as required by NJSA 18A:35-7.
 - No change from current practice.
6. One credit year of fine, practical and/or performing arts.
 - Any course in the art series (1200) or music series (2100).
 - English courses such as drama and creative writing may be counted provided that they are not also included as satisfying the state communications requirements.
 - Any practical arts course (1300 series) provided that it is not counted as satisfying any other state curriculum area requirement.
 - Any industrial arts course in the 1800 series at the high school level.

-The requirement may also be satisfied in vocational education courses provided that the areas counted are demonstrably practical arts related and the course segment is not used to satisfy other state curriculum area requirements.

7. One-half credit year of career exploration or development.

-This requirement is designed to assist students to identify and explore a wide variety of occupations; to identify their own interests, aptitudes and abilities; and to develop their skills in decision-making and in career fields. The required proficiencies may be gained through:

1. Career awareness or career exploration programs at the high school level. Guidelines have already been provided by the Department of Education.
2. Structured group or individual guidance and counseling activities which provide the educational outcomes listed above.
3. Vocational education programs (cooperative vocational education; agriculture/agribusiness/natural resources education; business and office education; distributive education; health occupations education; consumer and homemaking education; occupational home economics; technical education; and vocational industrial education); and industrial arts education programs (1300, 1700, 1800, 2500, and 2600 course series).

Section 18A:35-1. Course in history of the United States in high school. The superintendent of schools in each school district shall prepare and recommend to the board of education of the district, and the board of education shall adopt a suitable two-year course of study in the history of the United States to be given to each student during the last four years of high school.

Section 18A:35-5. Maintenance of physical training courses; features. Each board of education shall conduct as a part of the instruction in the public schools courses in health, safety and physical education, which courses shall be adapted to the ages and capabilities of the pupils in the several grades and departments. To promote the aims of these courses any additional requirements or rules as to medical inspection of school children may be imposed.

Section 18A:35-7. Course required.

Every pupil, except kindergarten pupils, attending the public schools, insofar as he is physically fit and capable of doing so, as determined by the medical inspector, shall take such courses, which shall be a part of the curriculum prescribed for the several grades, and the conduct and attainment of the pupils shall be marked as in other courses or subjects, and the standing of the pupil in connection therewith shall form a part of the requirements for promotion or graduation.

Section 18A:35-4. Course in nature and effect of alcoholic drinks and narcotics.

The nature of alcoholic drinks and narcotics and their effects upon the human system shall be taught in all schools supported wholly or in part by public moneys in such manner as may be adapted to the age and understanding of the pupils and shall be emphasized in appropriate places of the curriculum sufficiently for a full and adequate treatment of the subject. . . Each board of education shall make provisions in its annual educational program to fulfill this requirement and with respect to the requirement concerning the teaching of the nature of alcoholic drinks and their effects upon the human system, each board shall consult with a local organization involved with the prevention, detection, and treatment of alcoholism approved by the Department of Health.

Section 18A:35-10. Military training course; when required; preparation. If the State board shall determine that the courses in health, safety and physical education, as prescribed for male pupils in the high school, shall include a course in military training, such course in military training shall be prepared by the commissioner and the Adjutant General of the Department of Defense and be a part of the courses in health, safety, and physical education for male pupils, and all male pupils in the high school shall be required to take the same except those who are physically unfit, as determined by the medical inspector, or whose parents have conscientious scruples against military training.

Section 18A:35-15. Legislative findings.

The Legislature finds that there are large numbers of children in the State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The legislature believes that a program of bilingual education can meet the needs of those children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of the state to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English speaking ability, it is the purpose of this act to provide for the establishment of bilingual education programs in the public schools.

Section 18A:36-4. Period of silence.

Principals and teachers in each public elementary and secondary school of each school district in this State shall permit students to observe a 1 minute period of silence to be used solely at the discretion of the individual student, before the opening exercises of each school day for quiet and private contemplation or introspection.

Section 18A:35-3. Course in civics, geography and history of New Jersey. Each board of education shall adopt a course of study in community civics, the geography, history and civics of New Jersey, and the privileges and responsibilities of citizenship as they relate to community and national welfare, which course shall be taken by all pupils in the public elementary schools in the grade or grades in which it is given, with the object of producing the highest type of patriotic citizenship.

Section 18A:35-4.1. Course of study in principles of humanity. Each board of education may teach, by special courses or by emphasis in appropriate places of the curriculum, in a manner adapted to the ages and capabilities of the pupils in the several grades and departments, the principles of humanity as the same apply to kindness and avoidance of cruelty to animals and birds, both wild and domesticated.

Section 18A:36-3. Display of and salute to flag; pledge of allegiance. Every board of education shall:

(a) Procure a United States flag, flagstaff and necessary appliances thereof for each school in the district and display such flag upon or near the public school building during school hours;

(b) Procure a United States flag, flagstaff and necessary appliances or standard therefor for each assembly room and each classroom in each school, and display such flag in the assembly room and each classroom during school hours and at such other time as the board of education may deem proper; and

(c) Require the pupils in each school in the district on every school day to salute the United States flag and repeat the following pledge of allegiance to the flag: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all," which salute and pledge of allegiance shall be rendered with the right hand over the heart, except that pupils who have conscientious scruples against such pledge or salute, or are children of accredited representatives of foreign governments to whom the United States government extends diplomatic immunity, shall not be required to render such salute and pledge. . .

Section 18A:36-11. Observance of Commodore Barry Day.

It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on such day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct such exercises or instructions as shall tend to (1) acquaint such pupils with the achievements of Commodore John Barry, "father of the American navy," and (2) honor the memory of Commodore Barry.

Section 18A:36-13. Patriotic exercises preceding holidays.

Appropriate exercises for the development of a higher spirit of patriotism shall be held in all public schools on the last school day preceding Lincoln's Birthday, Washington's Birthday, Decoration or Memorial Day, Columbus Day, Veterans Day, and Thanksgiving Day, and. . .patriotic holidays established by law.

NEW MEXICO

Section 22-13-1. Public schools; required courses of instruction.

The state board shall, by regulation, prescribe courses of instruction to be taught in all public schools in the state, including courses in the history of New Mexico.

Section 22-13-5. Special education for exceptional children.

The state shall require school districts to provide special education sufficient to meet the needs of all exceptional children unless otherwise provided by law. Regulations and standards shall be developed and established by the state board of education for the conduct of special education in the schools and classes of the public school system in the state and in all institutions wholly or partly supported by the state.

NEW YORK

Section 100.2. General school requirements.

. . . (c) Instruction in certain subjects. Pursuant to Articles 17 and 65 of the Education Law, instruction in certain subjects in elementary and secondary schools shall be provided as follows:

- (1) For all students, instruction in patriotism and citizenship, as required by section 801 of the Education Law;
- (2) For all students in the eighth and higher grades, instruction in the history, meaning, significance and effect of the provisions of the Constitution of the United States and the amendments thereto, the Declaration of Independence, the Constitution of the State of New York and the amendments thereto, as required by section 801 of the Education Law;
- (3) For all students, health education regarding alcohol, drugs and tobacco abuse, as required by section 804 of the Education Law;
- (4) For all students, instruction in highway safety and traffic regulation, as required by section 806 of the Education Law;
- (5) For all students, instruction in fire drills and in fire and arson prevention, as required by sections 807 and 808 of the Education Law;
- (6) For all students in grades one through eight, instruction in New York State history and civics as required by section 3204(3) of the Education Law;
- (7) For public school students, instruction relating to the flag and certain legal holidays, as required by section 802 of the Education Law;
- (8) For all public elementary school students, instruction in the humane treatment of animals and birds, as required by section 809 of the Education Law; and
- (9) For all public school students, instruction relating to the conservation of the natural resources of the State, as required by section 810 of the Education Law.

Section 100.3. Program requirements for students in grades one through six.

(1) Required subjects. During grades one through six, all students shall receive instruction in arithmetic, reading, spelling, writing, the English language, geography, United States history, science, health education, music, visual arts, physical education and, where student need is established, bilingual education an/or English as a second language.

Section 100.4. Program requirements for students in grades seven and eight.

(1) Students completing grade 8 by June 1986 shall receive instruction in English, social studies, science, mathematics, physical education, health education, visual arts, music and practical arts.

(2) Except as otherwise provided herein, students completing grade 8, the following required instruction or its equivalent:

- (i) English, 2 units of study;
- (ii) Social studies, 2 units of study;
- (iii) Science, 2 units of study;
- (iv) Mathematics, 2 units of study;
- (v) For students completing grade 8 in June 1988 or thereafter, technology education, 1 unit of study;
- (vi) For students completing grade 8 in June 1988 or thereafter, home and career skills, 3/4 of a unit of study;
- (vii) Physical education, as required by section 135.3. . .
- (viii) Health education, 1/2 unit of study, as required by section 135.3. . .
- (ix) Art, 1/2 unit of study;
- (x) Music, 1/2 unit of study
- (xi) For students completing grade 8 in June 1988 or thereafter, library and information skills, the equivalent of one period per week in grades 7 and 8.

(3) The requirements for technology education, home and career skills and library and information skills may be met by the integration of the learning outcomes of such subjects into other courses in accordance with the following criteria. . .

Section 100.5. Diploma requirements.

(a) General requirements for a Regents or a local high school diploma.

(1) Students graduating in 1986, 1987 and 1988 shall earn at least 16 units of credit or their equivalent, as determined by the commissioner, to receive a local high school diploma and 18 units of credit or their equivalent, as determined by the commissioner, to receive a Regents high school diploma.

Such units of credit shall include:

- (i) English, 4 units;
- (ii) Social studies, including a year of American history, 3 units;
- (iii) Mathematics, 1 unit, provided that students graduating

- in 1988 shall earn at least 2 units of credit in mathematics as set forth in paragraph 7 of this subdivision;
- (iv) Science, 1 unit, provided that students graduating in 1988 shall earn at least 2 units of credit in science as set forth in paragraph 8 of this subdivision; and
- (v) Health, 1/2 unit.

NORTH CAROLINA

Section 115C-81. Basic Education Program.

(a) The State Board of Education shall adopt a Basic Education Program for the public schools of the State. Before it adopts or revises the Basic Education Program, the State Board shall consult with an Advisory Committee, including at least eight members of local boards of education, that the State Board appoints from a list of nominees submitted by the North Carolina School Boards Association. The State Board shall report annually to the General Assembly on any changes it has made in the program in the preceding 12 months and any changes it is considering for the next 12 months.

The State Board shall implement the Basic Education Program within funds appropriated for that purpose by the General Assembly and by units of local government. It is the goal of the General Assembly that the Basic Education Program be fully funded and completely operational in each local school administrative unit by July 1, 1993.

(a1) The Basic Education Program shall describe the education program to be offered to every child in the public schools. It shall provide every student in the State equal access to a Basic Education Program. Instruction shall be offered in the areas of arts, communication skills, physical education and personal health and safety, mathematics, media and computer skills, science, second languages, social studies, and vocational education.

(b) The Basic Education Program shall include course requirements and descriptions similar in format to materials previously contained in the standard course of study and it shall provide:

- (1) A core curriculum for all students that takes into account the special needs of children and includes appropriate modifications for the learning disabled, the academically gifted, and the students with discipline and emotional problems;
- (2) A set of competencies, by grade level, for each curriculum area;
- (3) A list of textbooks for use in providing the curriculum;
- (4) Standards for student performance and promotion based on the mastery of competencies, including standards for graduation;
- (5) A program of remedial education;
- (6) Required support programs;
- (7) A definition of the instructional day;
- (8) Class size recommendations and requirements;
- (9) Prescribed staffing allotment ratios;

- (10) Material and equipment allotment ratios;
- (11) Facilities standards; and
- (12) Any other information the Board considers appropriate and necessary.

(c) Local boards of education shall provide for the efficient teaching at appropriate grade levels of all materials set forth in the standard course of study, including integrated instruction in the areas of citizenship in the United States of America, government of the State of North Carolina, government of the United States, fire prevention, the free enterprise system, and the dangers of harmful or illegal drugs, including alcohol.

Local boards of education shall require all teachers and principals to conduct classes except foreign language classes in English. Any teacher or principal who refuses to do so may be dismissed.

(d) The standard course of study as it exists on January 1, 1985, and as subsequently revised by the State Board, shall remain in effect until its components have been fully incorporated and implemented as a part of the Basic Education. . .

NORTH DAKOTA

Section 15-14-24. High Schools--Minimum Curriculum.

The following units of study shall be made available to all students in each public and private high school in this state at least once during each four-year period, and each private high school shall comply with the requirements of this section if such high school is to receive approval by the department of public instruction:

1. English, four units.
2. Mathematics, three units.
3. Science, four units.
4. Social studies, three units.
5. Health and physical education, one unit.
6. Music, one unit.
7. Any combination of the following course areas: business education, economics and the free enterprise system, foreign language, industrial arts, vocational education, six units. For purposes of this section vocational education shall include home economics, agriculture, office education, distributive education, trade industrial, technical, and health occupations.

Each public or private high school may count for purposes of compliance with this section those vocational education courses which are offered through cooperative arrangements approved by the state board of vocational education.

OHIO

Section 3313.60. Courses of study required.

Boards of education of county, exempted village, and city school districts shall prescribe a graded course of study for all schools under their control subject to the approval of the state board of education. In such graded courses of study there shall be included the study of the following subjects:

(A) The language arts, including reading, writing, spelling, oral and written English, and literature;

(B) Geography, the history of the United States and of Ohio, and national, state, and local government in the United States, including a balanced presentation of the relevant contributions to society of men and women of African, Mexican, Puerto Rican, and American Indian descent as well as other ethnic and racial groups in Ohio and the United States;

(C) Mathematics;

(D) Natural science, including instruction in the conservation of natural resources;

(E) Health education, which shall include instruction in the nutritive value of foods, including natural and organically produced foods, the relation of nutrition to health, the use and effects of food additives, and the harmful effects of and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco, and venereal disease education, except that upon written request of his parent or guardian, student shall be excused from taking instruction in venereal disease education;

(F) Physical education;

(G) The fine arts, including music;

(H) First aid, safety and fire prevention.

Every school shall include in the requirements for promotion from the eighth grade to the ninth grade one year's course of study of American history.

Every high school shall include in the requirements for graduation from any curriculum one unit of American history and government, including a study of the constitutions of the United States and of Ohio.

Basic instruction in geography, United States history, the government of the state of Ohio, local government in Ohio, the Declaration of Independence, the United States Constitution, and the Constitution of the state of Ohio shall be required before pupils may participate in courses involving the study of social problems, economics, foreign affairs, United Nations, world government, socialism and communism.

OKLAHOMA

Section 11-101.1. Voluntary prayer.

The board of education of each school district shall permit those students and teachers who wish to do so to participate in voluntary prayer. Nothing in this act shall be construed to be in conflict with Section 11-101 of Title 70 of the Oklahoma Statutes.

Section 11-103. Courses for instruction--What to include.

A. The State Board of Education shall formulate, prescribe, adopt or approve such courses for instruction of pupils in the public schools of the state that are necessary to ensure:

1. The teaching of the necessary basic skills of learning and communication, including reading, English, writing, the use of numbers and science; and

2. The teaching of citizenship in the United States, in the State of Oklahoma, and other countries, through the study of the ideals, history and government of the United States, other countries of the world, and the world, and the State of Oklahoma and through the study of the principles of democracy as they apply in the lives of citizens.

It is the intent of the Legislature that the public school districts of this state ensure that each child enrolled therein be provided with adequate instruction in the basic skills as set out in paragraphs 1 and 2 of this subsection. Provided, prior to May 30, 1983, each local board of education shall develop a process whereby such district shall annually evaluate the district's curriculum in order to determine whether each child in the district is receiving adequate basic skill instruction as set out in paragraphs 1 and 2 of this subsection. Such process shall provide for parental involvement.

B. The State Board of Education may formulate, prescribe, adopt or approve such courses for instruction of pupils in the public schools of the state that are approved by a local board of education and are necessary to ensure:

1. The teaching of health through the study of proper diet, the effects of alcoholic beverages, narcotics and other substances on the human system and through the study of such other subjects as will promote healthful living and help to establish proper health habits in the lives of school children;

2. The teaching of safety through training in the driving and operation of motor vehicles and such other devices of transportation as may be desirable and other aspects of safety which will promote the reduction of accidents and encourage habits of safe living among school children;

3. The teaching of physical education to all physically able students during the entire school year from first through sixth grade, through physical education, a weekly minimum of seventy-five minutes per student, exclusive of recess activity, supervised play, intramurals, interschool athletics or other extracurricular activities, provided any student participating as a member of any school athletic team shall be excused from physical education classes. And provided further that certified physical education instructors shall not be required to administer the programs required for grades first through sixth. An elective program of instructional physical education designed to provide a minimum of 150 minutes per week per student shall be provided for all students in the seventh grade through the twelfth grade. . . . Provided, further, that any student who has exceptional talent in music may, with the approval of the superintendent of schools in independent districts or with the approval of the county superintendent in dependent districts, substitute a course in music for the above-required physical education course;

4. The teaching of the conservation of natural resources of the state and the nation that are necessary and desirable to sustain life and contribute to the comfort and welfare of the people now living and those who will live here in the future, such as soil, water, forests, minerals, oils, gas, all forms of wildlife, both plant and animal, and such other natural resources as may be considered desirable to study;

5. The teaching of vocational education, by the study of the various aspects of agriculture, through courses and farm youth organizations, such as FFA and 4-H clubs, homemaking and home economics, trades and industries, distributive education, mechanical and industrial arts and such other aspects of vocational education as will promote occupational competence among school children and adults as potential and actual citizens of the state and nation;

6. The teaching of such other aspects of human living and citizenship as will achieve the legitimate objectives and purposes of public education.

C. It is the duty of the State Board of Education to require that there be included in a yearly report authorized in paragraph 16 of Section 3-104 of this title, a certification of compliance with the provisions of subsection A of this section or an acceptable explanation of non-compliance with any such provision.

Section 13-101. Special services for exceptional children--Cooperative programs--Funding--Exceptional children defined--State aid--Duty to provide special education.

The several school districts of Oklahoma are hereby authorized to provide special services necessary for exceptional children as hereinafter defined . . .

OREGON

Section 336.015. Arbor Week.

(1) The first full week in April shall be known as Arbor Week. In order that pupils in the public schools shall be made better aware of the benefits of the preservation and perpetuation of forests and the growing of timber and of the environment, the district school board shall cause to be conducted, during school hours, activities which tend to encourage the planting, protection and preservation of trees and shrubs and a greater understanding of the environment and means for preserving and improving it. . .

Section 336.025. Women in History Week.

The second week in March shall be known as Women in History Week. During school hours in Women in History Week, time shall be set apart for instruction and appropriate activities in commemoration of the lives, history and achievements of women in history, including Frances E. Willard and women in Oregon history.

Section 336.035. Required courses of study; supplemental courses; district courses.

(1) The district school board shall see that the courses of study prescribed by law and by the rules of the State Board of Education are carried out. The board may establish supplemental courses which are not inconsistent with the prescribed courses and may adopt courses of study in lieu of state courses of study upon approval by the Superintendent of Public Instruction. . .

Section 336.057. Courses in Constitution and history of United States.

(1) In all public and private schools courses of instruction in the Constitution of the United States and in the history of the United States shall be given.

(2) The courses prescribed under subsection (1) of this section shall begin not later than the opening of the eighth grade and shall continue in grades 9 through 12.

(3) Such courses shall also be required in all state institutions of higher education. . .

Section 336.067. Instruction in ethics and morality.

(1) In public schools special emphasis shall be given to instruction in:

(a) Honesty, morality, courtesy, obedience to law, respect for the national flag, the Constitution of the United States and the Constitution of the State of Oregon, respect for parents and the home, the dignity and necessity of honest labor and other lessons which tend to promote and develop an upright and desirable citizenry.

(b) Respect for all humans, regardless of race, color, creed, national origin, religion, age, sex or handicaps. Acknowledgment of the dignity and worth of individuals and groups and their participative roles in society.

(c) Humane treatment of animals.

(d) The effects of tobacco, alcohol, drugs and controlled substances upon the human system.

(2) The Superintendent of Public Instruction shall prepare an outline with suggestions which will best accomplish the purpose of this section, and shall incorporate the outline in the courses of study for all public schools.

Section 336.072. Fire drills; unlocked exits; instruction in fire dangers; course of instruction.

(1) In every public, private or parochial school or educational institution having an average daily attendance of 50 or more, pupils shall be instructed and drilled so that they may, in sudden emergency, be able to leave the school building in the shortest possible time and without confusion or panic. Drills or rapid dismissals shall be held at least once each school month. All exit doors shall be maintained so that they can be opened from the inside without a key during school hours.

(2) At least 30 minutes in each school month shall be used to instruct children in grades one through eight on fire dangers and drills.

(3) For the purpose of instruction on fire dangers and drills, the Superintendent of Public Instruction shall prepare a written course of instruction which shall be printed and distributed at state expense in quantities sufficient to provide a copy for each teacher who provides the instruction required by this section.

Section 336.074. Teaching in English required; exceptions.

Instruction in all subjects in public, private and parochial schools shall be conducted primarily in English, except:

(1) Instruction in foreign languages.

(2) Instruction may be conducted in more than one language in order that pupils whose native language is other than English can develop bilingual skills to make an early and effective transition to English and benefit from increased educational opportunities.

Section 336.079. Special English courses for certain children.

Specific courses to teach speaking, reading and writing of the English language shall be provided at each grade level, starting at the first grade, to those children who are unable to profit from classes taught in English. Such courses shall be taught to such a level in school as may be required until children are able to profit from classes conducted in English.

Section 336.082. Development of nondiscriminatory curriculum to improve instructional effectiveness.

(1) The State Board of Education shall encourage the development or implementation of curriculum for public elementary and secondary schools in Oregon that will improve instructional effectiveness or efficiency and that is nondiscriminatory by race, sex, age, marital status, creed or color.

(2) The State Board of Education shall stimulate the development of nondiscriminatory courses of study or parts of courses to improve instructional effectiveness or efficiency in public elementary and secondary schools in Oregon. The board may contract with the Department of Education or other appropriate public educational agencies to develop program materials and to establish a mechanism for the purpose of introducing the materials and implementing the techniques.

Section 336.086. Standards for curriculum described in ORS 336.082.

(1) Develop and test nondiscriminatory courses of study or parts of courses which feature predictable student achievement of pre-stated student performance objectives.

(2) Stimulate the implementation of innovative approaches to instruction within the various schools, providing training programs as necessary to familiarize faculty and administrators with newly developed instructional methodology.

(3) Be capable of objective evaluation within two years of commencement.

PENNSYLVANIA

Section 15-1511. Subjects of instruction: flag code.

In every elementary public and private school, established and maintained in this Commonwealth, the following subjects shall be taught, in the English language and from English texts: English, including spelling, reading and writing, arithmetic, geography, the history of the United States and of Pennsylvania, civics, including loyalty to the State and National Government, safety education, and the humane treatment of birds and animals, health, including physical education, and physiology, music and art. Other subjects shall be taught in the public elementary schools and also in the public high schools as may be prescribed by the standards of the State Board of Education. All such subjects, except foreign languages, shall be taught in the English language and from English texts: Provided, however, That, at the discretion of the superintendent of Public Instruction, the teaching of subjects in a language other than English may be permitted as part of a sequence in foreign language study or as part of a bilingual education program if the teaching personnel are properly certified in the subject fields. Each school district shall provide and distribute to each pupil, enrolled in the eighth grade of the public schools, one illustrated copy of the National Flag Code, and shall, from time to time, make available such copies as are necessary for replacements from year to year. It shall be the duty of each teacher in the public schools to make such use of the code as may, from time to time, seem proper.

Section 15-1516.1. Mediation and prayer periods.

(a) In each public school classroom, the teacher in charge may, or if so authorized or directed by the board of school directors by which he is employed, shall, at the opening of school upon every school day, conduct a brief period of silent prayer or meditation with the participation of all the pupils therein assembled.

(b) The silent prayer or meditation authorized by subsection (a) of this section is not intended to be, and shall not be conducted as, a religious service or exercise, but shall be considered as an opportunity for silent prayer or meditation on a religious theme by those who are so disposed, or a moment of silent reflection on the anticipated activities of the day.

RHODE ISLAND

Section 16-22-1. Study of curricula--Vocational guidance.

The department of education shall make a study of the curricula offered by the public schools within this state for the purpose of planning a more practical educational program. The object of said program shall be the training of pupils so that at the completion of their schooling they may be qualified to seek specialized occupations in the fields of business, industry, manufacturing and the various professions. Through

vocational guidance counselors within the schools each pupil shall receive assistance in selecting studies which will help to fit him for some specialized occupation or profession upon his graduation from high school or college.

Section 16-22-2. Courses in history and government.

The principles of popular and representative government as enunciated in the constitution of Rhode Island and the constitution of the United States study shall be taught in all the public schools of this state. The course of study shall be prescribed by the department of education. Commencing with the fourth grade in elementary schools instruction shall be given in the history and government of Rhode Island, and in every high school thorough instruction shall be given in the constitution and government of the United States. No private school or private instruction shall be approved for the purposes of chapter 19 of this title unless the course of study therein shall make provision for instruction substantially equivalent to that required by this chapter for public schools.

Section 16-22-3. Instruction in physiology and hygiene.

The school committees of the several towns shall make provision for the instruction of the pupils in all schools supported wholly, or in part, by public money, in physiology and hygiene, with special reference to the effects of alcoholic liquors, stimulants and narcotics upon the human system.

Section 16-22-4. Instruction in health and physical education.

All children in grades one through twelve attending public schools, or such other schools as are managed and controlled by the state, shall receive therein instruction in health and physical education under such rules and regulations as the department of education may prescribe or approve during periods which shall average at least twenty minutes in each school day. No private school or private instruction shall be approved by any school committee for the purposes of chapter 19 of this title, as substantially equivalent to that required by law of a child attending a public school in the same city and/or town unless instruction in health and physical education similar to that required in public schools shall be given.

Section 16-22-5. Course in fire prevention prescribed.

The department of education is hereby empowered and directed to prescribe a course of study in fire prevention for use in the public schools of the state, dealing with the protection of lives and property against loss or damage as a result of preventable fire.

Section 16-22-8. Foreign language courses.

Whenever there shall be twenty students who apply for a course in the Italian, Portuguese or Spanish language in any high school of the state, the school committee of the specific town shall arrange a course in Italian, Portuguese or Spanish to be conducted by a competent teacher.

Section 16-22-10. Voting instruction.

The school committees of the several cities, towns and school districts shall provide for students of the senior class in high school, a course of instruction and demonstration in the operation of a voting machine, and of the manner of casting a valid ballot. The board of elections is hereby directed to make available to each city and town school committee one voting machine per town, to carry out the purposes of this section.

Section 16-22-13. Consumer education.

The school committees of the several cities, towns and school districts shall provide for pupils in the public schools in grades eight through twelve to be taught and be required to study courses which include instruction in consumer education, which may include, but not necessarily be limited to installment purchasing, budgeting, comparison of prices, credit and the law, employment and income, rights and responsibilities in the marketplace, money management and other personal finance or consumer economic topics of study approved by the department of education.

SOUTH CAROLINA

Section 59-29-10. Required subjects.

The county board of education and the board of trustees for each school district shall see that in every school under their care there shall be taught, as far as practicable, orthography, reading, writing, arithmetic, geography, English grammar, the elements of agriculture, the history of the United States and of this State, the principles of the Constitutions of the United States and of this State, morals and good behavior, algebra, physiology and hygiene (especially as to the effects of alcoholic liquors and narcotics upon the human system), English literature and such other branches as the State Board may from time to time direct.

Section 59-29-20. Required subjects; nature and effect of alcoholic drinks and narcotics.

The nature of alcoholic drinks and narcotics and special instruction as to their effect upon the human system shall be taught in all the grammar and high schools of this State which receive any State aid whatsoever and shall be studied and taught as thoroughly and in the same manner as all other required branches in such schools, as may be required by the State Board of Education. The State Board of Education shall provide for the enforcement of the provisions of this section.

Section 59-29-50. Required subjects; traffic laws.

The State Department of Education and the trustees of the State institutions of higher learning shall establish and require to be taught in the respective schools under their control a course of instruction on the traffic laws of this State. Such course of instruction shall be by lectures.

Section 59-29-60. Required subjects; program of safety instruction.
A definite program of safety instruction shall be included in the curriculum and provided in each primary and elementary grade in the public schools of the State.

Section 59-29-70. Required subjects; instruction in fire prevention.
The State Board of Education shall provide for instruction in fire prevention in the elementary public schools of the State. Each teacher in a public school of this State shall give such instruction in fire prevention as may be prescribed by the State Board.

Section 59-29-80. Courses in physical education; ROTC programs.
There shall be established and provided in all the public schools of this State physical education, training and instruction of pupils of both sexes, and every pupil attending any such school, in so far as he is physically fit and able to do so, shall take the course or courses therein as provided by this section. Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for normal pupils. Provided, however, that in any public school which offers a military or naval ROTC program sponsored by one of the military services of the United States, training in such a program may be deemed equivalent to physical education instruction, and may be accepted in lieu of such instruction for all purposes, academic or nonacademic, as may hereinafter be provided.

Section 59-29-120. Study of United States Constitution requisite for graduation; proof of loyalty.
All high schools, colleges and universities in this State that are sustained or in any manner supported by public funds shall give instruction in the essentials of the United States Constitution, including the study of and devotion to American institutions and ideals, and no student in any such school, college or university shall receive a certificate of graduation without previously passing a satisfactory examination upon the provisions and principles of the United States Constitution, and, if a citizen of the United States, satisfying the examining power of his loyalty thereto.

Section 59-29-160. Two units of mathematics requisite for graduation.
Every student in an accredited high school in this State shall, as a prerequisite to graduation therefrom, successfully complete at least two units of work in the field of mathematics.

Section 59-29-55. Instruction on Black history.
The State Board of Education shall examine the current status of the teaching of South Carolina History. By the 1989-1990 school year, each public school of the State must instruct students in the history of the black people as a regular part of its history and social studies courses. The State Board of Education shall establish regulations for the adoption of history and social studies textbooks which incorporate black history and shall, through the State Department of Education, assist the

school districts in developing and locating suitable printed materials and other aids for instruction in black history. The State Board of Education shall examine curricular material for grades 1-6 to determine the level of emphasis on the relationship of agriculture and other industries to the South Carolina economy.

Section 59-29-170. Programs for talented students.

Not later than August 15, 1987, all gifted and talented students at the elementary and secondary levels must be provided programs during the regular school year or during summer school to develop their unique talents in the manner the State Board of Education shall specify. The select committee shall study the implementation of this section and report its findings to the General Assembly by July 1, 1986. Monies appropriated for Gifted and Talented Programs under the Education Improvement Act of 1984 shall be allocated to the school districts of the state on the basis that the number of such students served in each district bears to the total of all such students in the state. By August 15, 1984, the State Board of Education shall promulgate regulations establishing the criteria for student eligibility in Gifted and Talented Programs.

Section 59-29-180. Emphasis on higher order problem solving skills.

The State Department of Education and all school districts shall emphasize higher order problem skills in curricula at all levels.

SOUTH DAKOTA

Section 13-33-1. Conformity to standards adopted by state board.

All the public schools in the state shall provide instruction in substantial conformity to the accreditation standards adopted by the state board of education.

Section 13-33-4. Instruction on United States and state Constitutions required--Years when given.

In all public and nonpublic schools located within the state there shall be given regular courses of instruction in the Constitutions of the United States and the state of South Dakota. Such instruction shall begin not later than the opening of the eighth grade and shall continue in the high school to an extent to be determined by the state board of education.

Section 13-33-5. Patriotic instruction required.

In addition to other courses, special instruction shall be given in all public and nonpublic elementary and secondary schools in the state in patriotism, including the singing of patriotic songs, the reading of patriotic addresses, and a study of the lives and history of American patriots.

Section 13-33-6. Moral instruction required.

In addition to other courses, there shall be given in all public and nonpublic elementary and secondary schools in the state, special moral instruction intended to impress upon the minds of students the importance of truthfulness, temperance, purity, public spirit, patriotism, respect for honest labor, obedience to parents, respect for the contributions of minority and ethnic groups to the heritage of South Dakota, and due deference to old age.

Section 13-33-8. Arbor Day--Instruction on tree and shrub planting.

The last Friday in April in each year is hereby designated and established as Arbor Day in South Dakota and teachers are urged to observe Arbor Day by preparation of programs telling the importance of trees and bird life in a prairie and plains country and to have ceremonies in connection with actual tree planting; also to emphasize the need for care throughout the year of individual tree and shrub planting as well as shelter belt plantings.

Section 13-33-10. Released time for religious instruction.

A child may, on application of his parent or guardian, be excused from school for one hour per week for the purpose of taking and receiving religious instruction conducted by some church or association of churches. The school board shall decide at what hour pupils may be excused. No such instruction may be given in whole or in part at public expense. The school board may allow the student to accumulate up to four hours of excused leave time to be taken consecutively on any one day or two hours to be taken on any two days.

Section 13-33-11. Instruction to promote mastery of English language.

Instruction in any school shall be such that it promotes a mastery of the English language in oral and written communications.

Section 13-33-12. Free enterprise system instruction required.

All public and nonpublic schools shall provide instruction on the essentials and benefits of the free enterprise system. Instruction shall be given in accordance with guidelines prescribed by the state board of education. The state board of education shall prescribe a course of study for such instruction.

TENNESSEE

Section 49-6-1001. Flag.

All boards of education shall direct, and all teachers employed by the public schools shall give instructions to the pupils of the schools, and shall have the pupils study as a part of the curriculum, the uses, purposes and methods of displaying the American flag and other patriotic emblems.

Section 49-6-1003. Safety instruction.

(a) Whenever any state funds are used in any of the public schools of the state, it shall be the duty of the principal of the school or schools including all subprincipals and teachers therein, to instruct pupils in the art of safety as against injury on the public thoroughfares, highways and streets of the state, and other places where the students may come in contact with, or be in danger of bodily injury, for at least fifteen minutes in each week during the time the school is in session. . .

Section 49-6-1004. Period of silence or prayer.

(a) In order for all students and teachers to prepare themselves for the activities of the day, a period of silence of approximately one minute in duration shall be maintained in each grade in public schools at the beginning of each school day. At the opening of the first class each day it shall be the responsibility of each teacher in charge of each class to call the students to order and announce that a moment of silence is to be observed. The teacher shall not indicate or suggest to the students any action to be taken by them during this time, but shall maintain silence for the full time. At the end of this time, the teacher shall indicate resumption of the class in an appropriate fashion, and may at that time make school announcements or conduct any other class business before commencing instruction. . .

Section 49-6-1006. Black history and culture.

The course of instruction in all public schools of Tennessee should include at some appropriate grade level or levels, as determined by the local board of education, courses and content designed to educate children in black history and culture and the contribution of black people to the history and development of this country and of the world. The commissioner of education of the state shall annually advise all school district boards of education of the provisions of this section. The study materials used in the course of instruction herein authorized shall follow the state board of education's guidelines concerning pornography.

Section 49-6-1007. Character education.

(a) The course of instruction in all public schools in Tennessee shall include character education to help each student develop positive values and to improve student conduct as students learn to act in harmony with their positive values and learn to become good citizens in their school, community, and society.

(b) (1) The state board of education shall provide the appropriate method

of instruction in grades seven through twelve, in conformity with the elementary school curriculum provided for in subsection (c).

(2) Local boards of education may implement additional courses and materials in character education at their discretion.

(c) (1) Each local education agency should provide the character education curriculum in grades kindergarten through six developed by the American Institute for Character Education of San Antonio, Texas, or a comparable program approved by the state board of education. The materials for this curriculum shall be provided by the state as part of the Tennessee foundation program.

(2) Local boards of education may implement additional courses or materials in character education at their discretion.

Section 49-6-1101. General provisions.

(a) (1) The course of study in all public elementary schools shall embrace the following subjects: spelling; reading; writing; arithmetic; grammar; geography; history of Tennessee, containing the Constitution of Tennessee; history of the United States, containing the Constitution of the United States; hygiene and sanitation; physical education; vocal music and drawing.

(2) Instruction in hygiene and sanitation shall include the nature of alcoholic drinks, narcotics, and smoking of cigarettes, and their effects upon the human system.

(3) The course shall be divided into eight grades, each grade representing a year's work as outlined in the course of study prepared under the direction of the state commissioner of education.

(b) In every city elementary school there shall be taught reading, writing, spelling, arithmetic, English, grammar, geography, Tennessee history, United States history containing the Constitution of the United States, hygiene and sanitation, music, drawing, and such other subjects as the city board of education may require.

(c) In the first three grades, instruction shall concentrate on reading, writing, arithmetic, and spelling in order to develop a sound base and adequate proficiency in these subjects to enable a student to successfully pursue other studies.

Section 49-6-1202. American history and government.

(a) (1) Every four year high school in Tennessee which receives public funds from city, county and/or state governments shall require every student to have at least one year of instruction in American history and government, preferably in the fourth year.

(2) If any student in any of the designated schools fails or refuses to take the subjects above named, he shall not be admitted to the University of Tennessee or the state university and community college system of Tennessee unless and until he agrees to earn credit in these subjects in the first or second year of attendance.

(b) (1) Every private high school in Tennessee which gives a four year course in literary branches is subject to the same requirements as are the public high schools in Tennessee in regard to teaching American history and government.

(2) Failure or refusal to comply with the provisions of subsections (a) and (b) by private high schools will automatically remove them from the list of accredited high schools in Tennessee.

(c) Failure to carry out the provisions of subsection (a) shall constitute a misdemeanor on the part of any principal of a public high school in Tennessee and shall cause the school to be removed from the accredited list of high schools and the teaching license of the teacher shall be revoked.

(d) Any dean of the University of Tennessee or dean of any state college who shall violate the provisions of this section shall be removed from his position and shall not be permitted to engage in any form of public school or college work in Tennessee for the five years next succeeding his dismissal. This provision also applies to any person who may be substituting for any of the deans.

Section 49-6-1203. Federal and state constitutions.

(a) A treatise on the history and interpretation of the Constitution of the United States approved or adopted by the state board of education is required to be taught in the high schools of Tennessee.

(b) (1) It shall be the duty of the state board of education and all local boards of education to cause to be taught in each public high school in this state the Constitution of Tennessee.

(2) The state board of education shall determine the nature and extent of the instruction to be given thereon and the credits to be given for such course, provided, that such course need not extend for more than one year.

Section 49-6-1205. Free enterprise system.

(a) The state board of education shall establish a program of instruction for the public high schools on the essentials of the free enterprise system. Instruction shall be given in accordance with the course of study prescribed by the state board of education for at least one semester, equal to one half unit of credit. The state board of education shall prescribe suitable teaching material for such instruction.

(b) As used in this section, "instruction on the essentials of the free enterprise system" may be construed to include a minimum of thirty weeks participation in the Junior Achievement Program, and such participation shall render the student eligible for the one half unit of credit granted under this section.

(c) As used in this section "free enterprise" means an economic system characterized by private or corporate ownership of capital goods, by investments, that are determined by private decision rather than by state control, and by prices, production, and the distribution of goods that are determined in a free manner.

Section 49-6-1206. Reserve officer training.

In high schools offering programs of reserve officer training, a student may, at his or her discretion, substitute credit earned in the reserve officer training program for required credit in physical education.

TEXAS

Section 21.101. Required Curriculum.

(a) Each school district that offers kindergarten through grade 12 shall offer a well-balanced curriculum that includes:

- (1) English language arts;
- (2) other languages, to the extent possible;
- (3) mathematics;
- (4) science;
- (5) health;
- (6) physical education;
- (7) fine arts;
- (8) social studies;
- (9) economics, with emphasis on the free enterprise system and its benefits;
- (10) business education;
- (11) vocational education; and
- (12) Texas and United States history as individual subjects and in reading courses.

(b) The State Board of Education by rule shall designate subjects comprising a well-balanced curriculum to be offered by a school district that does not offer kindergarten through grade 12.

(c) The State Board of Education by rule shall designate the essential elements of each subject listed in Subsection (a) of this section and shall require each district to provide instruction in those elements at appropriate grade levels. In order to be accredited, a district must provide instruction in those essential elements as specified by the state board.

(d) Local instructional plans may draw upon state curriculum frameworks and program standards as appropriate. The responsibility for enabling all children to participate actively in a balanced curriculum which is designed to meet individual needs rests with the local school district. Districts are encouraged to exceed minimum requirements of the law. A primary purpose of the public school curriculum in Texas shall be to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage.

(e) . . . the commissioner of education may permit a school district to vary from the required curriculum as necessary to avoid hardship to the district.

(f) Not later than the 30th day preceding the day on which each regular session of the legislature convenes, the State Board of Education shall transmit to the governor, the lieutenant governor, and the legislature a report on the status of curriculum in the public schools. The report shall include recommendations for legislative changes necessary to improve, modify, or add to the curriculum.

(g) The State Board of Education and local school districts shall foster the continuation of the tradition of teaching American and Texas history and the free enterprise system in regular subject matter and in reading

courses in the public free schools of Texas and in the adoption of textbooks.

Section 21.102. Driver Education.

(a) The Central Education Agency shall develop a program of organized instruction in driver education and traffic safety for public school students who are 15 years of age or older.

(b) With the approval of the State Board of Education, the commissioner of education shall establish standards for the certification of professional and paraprofessional personnel who conduct the programs in the public schools.

Section 21.109. Language of Instruction.

(a) English shall be the basic language of instruction in all schools.

(b) It is the policy of this state to insure the mastery of English by all pupils in the schools; provided that bilingual instruction may be offered or permitted in those situations when such instruction is necessary to insure their reasonable efficiency in the English language so as not to be educationally disadvantaged.

Section 21.103. Texas History.

The history of Texas shall be taught in all public schools in and only in the history courses of all such schools. The course shall be taught for not less than two hours in any one week. The commissioner of education shall notify the different county, city, and district superintendents as to how the course may be divided.

Section 21.104. Physiology and Hygiene.

All textbooks on physiology and hygiene purchased in the future for use in the public schools of this state shall include at least one chapter on the effects of alcohol and narcotics. Although physiology and hygiene must be taught in all public schools, any child may be exempted, without penalty, from receiving instruction therein if his parent or guardian presents to the school principal a signed statement that the teaching of disease, its symptoms, development and treatment, and the viewing of pictures or motion pictures on such subjects conflict with the religious teachings of a well-established church or denomination to which the parent or guardian and the child belong.

Section 21.105. Kindness to Animals.

In the primary grades of all public schools in this state, suitable instruction shall be given with regard to kindness to animals and the protection of birds and their nests and eggs.

Section 21.106. Constitution.

All public free high schools in this state shall teach and require a course of instruction in the constitutions of the United States and the State of Texas. The course shall be a combined course in both constitutions, and shall be given for at least one-half hour each week in the school year. . .

UTAH

Section 53-14-1. State course of study committee--Members--Terms--Meetings--Responsibility--Compensation.

- (1) The state course of study committee consists of the following individuals:
 - (a) the state superintendent of public instruction;
 - (b) a school district superintendent, a secondary school principal, an elementary school principal, a secondary school teacher, and an elementary school teacher, each appointed by the State Board of Education for a two-year term;
 - (c) five persons not employed by the public school system, each appointed by the governor with the consent of the senate for a four-year term; and
 - (d) a dean of a school of education of a state college or university for a two-year term. This position rotates among the eligible state institutions.
- (2) The committee meets as necessary to recommend textbooks and changes in the state course of study.
- (3) The committee prepares a statement of the aims, purposes, objectives, and philosophy of education which is consistent with constitutional, legislative, and state board mandates as a guide for the public schools of the state.
- (4) The committee serves without compensation, but the actual and necessary expenses of the members while attending meetings of the committee are paid out of money appropriated to the state board. The state board is charged with executive responsibility for carrying out the work of the committee.

Section 53-14-4. Instruction in community and personal health, physiology and personal hygiene--Courses on the harmful effects of alcoholic beverages, tobacco, and narcotics--The free enterprise system--Political and religious doctrine not to be taught--Teaching of character habits.

- (1) The State Board of Education shall adopt rules regarding instruction in the following:
 - (a) community and personal health, physiology, and personal hygiene. These courses shall be taught in each grade, and instruction shall be consistent and systematic in grades eight through 12;
 - (b) in each grade, the harmful effects of alcoholic beverages, tobacco, and narcotics on the human body and society;
 - (c) the essentials and benefits of the free enterprise system.
- (2) No partisan political, atheistic, sectarian, religious, or denominational doctrine may be taught in the public schools.
- (3) Honesty, temperance, morality, courtesy, obedience to law, respect for the Constitutions of the United States and the State of Utah, respect for parents and home, and the dignity and necessity of honest labor and other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students for a richer, happier life shall be taught in connection with regular school work.

- (4) Local boards of education and their employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

Section 53-14-10. Instructions for development of character habits. It shall be the duty of all district boards of educations, boards of education of the cities of the first and second class, forums, and classes supported in whole or in part by the state of Utah to provide that persons employed to give instruction and guidance to young people under eighteen years of age, shall so arrange and present their instruction, guidance and plans for pupil and student thinking, discussion, decision and activity as shall give special emphasis to common honesty, morality, courtesy, obedience to law, respect for the Costitution of the United States, and the Constitution of the state of Utah, respect for parents and home, the dignity and necessity of honest labor and other skills, habits and qualities of character which will promote an upright and desirable citizenry and which will better prepare our youth for a richer, happier life.

VERMONT

Section 906. Course of study.

- (a) In public schools, approved and reporting private schools and in home study programs, learning experiences shall be provided for pupils in the minimum course of study.
- (b) For purposes of this title, the minimum course of study means learning experiences adapted to a pupil's age and ability in the fields of:
- (1) Basic communication skills, including reading, writing, and the use of numbers;
 - (2) Citizenship, history, and government in Vermont and the United States;
 - (3) Physical education and principles of health including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society;
 - (4) English, American and other literature; and
 - (5) The natural sciences.

Section 909. Alcohol and drug abuse prevention education curriculum.

- (a) The department of education in conjunction with the alcohol and drug abuse council is hereby authorized and directed to develop a sequential alcohol and drug abuse prevention education curriculum for elementary and secondary schools.
- (b) The department of education shall:
- (1) Provide pre-service and in-service training programs for school personnel on alcohol and drug abuse prevention;
 - (2) Provide teaching materials which are appropriate to the age and learning ability of the students;

- (3) Provide technical assistance to the local school districts for implementation of the curriculum;
- (4) Encourage coordination of effort with existing community resources.

VIRGINIA

Section 22.1-200. Subjects taught in elementary grades.

In the elementary grades of every public school the following subjects shall be taught: Spelling, reading, writing, arithmetic, grammar, geography, health and physical education, drawing, civil government, history of the United States and history of Virginia.

Section 22.1-201. Study of documents of Virginia history and United States Constitution.

The Declaration of American Independence, the general principles of the Constitution of the United States, the Virginia Statute of Religious Freedom, and the Virginia Declaration of Rights shall be thoroughly explained and taught by teachers to pupils in both public elementary and secondary schools. Emphasis shall be given to the citizenship responsibilities inherent in the rights included in these documents. Written examinations as to each of such documents shall be given.

Section 22.1-202. Instruction in history and principles of flags of United States and Virginia.

Instruction in the history of the flag of the United States and the flag of the Commonwealth shall be given in one or more grades in every school division.

Section 22.1-203. Daily observance of one minute of silence.

In order that the right of every pupil to the free exercise of religion be guaranteed within the schools and that the freedom of each individual pupil be subject to the least possible pressure from the State either to engage in, or to refrain from, religious observation on school grounds, the school board of each school division is authorized to establish the daily observance of one minute of silence in each classroom of the division.

Where such one-minute period of silence is instituted, the teacher responsible for each classroom shall take care that all pupils remain seated and silent and make no distracting display to the end that each pupil may, in the exercise of his or her individual choice, meditate, pray, or engage in any other silent activity which does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

Section 22.1-204. Study of accident prevention.

In one or more of the elementary grades or in one or more of the secondary grades of every school division there shall be provided a course of study including elementary training in accident prevention, in proper conduct on streets and highways, in the operation of motor vehicles

as required by the traffic laws of this Commonwealth, and in ways and means of preventing loss of lives and damage to property through preventable fires. Such course shall be required of every pupil completing the course of study in any such grade.

Section 22.1-206. Instruction concerning drugs and drug abuse.
Instruction concerning drugs and drug abuse shall be provided by the public schools as prescribed by the Board of Education.

Section 22.1-207. Physical and health education.
Physical and health education shall be emphasized throughout the public school curriculum by lessons, drills and physical exercises, and all pupils in the public elementary and secondary schools shall receive as part of the educational program such health instruction and physical training as shall be prescribed by the Board of Education and approved by the State Board of Health.

Section 22.1-208. Emphasis on moral education.
The entire scheme of instruction in the public schools shall emphasize moral education through lessons given by teachers and imparted by appropriate reading selections.

Section 22.1-208.1. Reading to learn; Virginia Reading to Learn Project.
A. In the secondary schools of every school division, reading to learn shall be emphasized as an integral part of instruction in every subject. In order to better equip secondary teachers to provide this emphasis, there is hereby established the Virginia Reading to Learn Project.
B. The Project shall consist initially of six regional sites established at state universities which will include, but not be limited to, summer institutes for secondary teachers and program planning and development support in cooperation with local school divisions.
C. The initial regional university sites will be Old Dominion University/Norfolk State University, the University of Virginia, Virginia Polytechnic Institute and State University, George Mason University, Virginia Commonwealth University, and James Madison University.
D. The Virginia Department of Education will distribute and monitor the funds necessary to implement the Project from available appropriations according to guidelines established by the Department.

Section 22.1-209. Employment counseling and placement services.
A. Each school board shall make available to secondary students employment counseling and placement services to furnish information relating to the employment opportunities available to students graduating from or leaving the public schools in the school division.
B. No fee, compensation or other consideration shall be charged to or received from any student utilizing such services.

Section 22.1-253.1 Standard 1. Basic Skills.

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of this Commonwealth must be to enable each student to master certain basic skills necessary for success in school and for a productive life in the years beyond. Therefore, each school division shall give the highest priority to developing basic skills to the best of each student's ability. There shall be concentrated effort in the primary grades (kindergarten through grade three) and intermediate grades (four through six). Remedial work shall begin for low-achieving students at all grade levels upon identification of their needs.

B. The program of instruction in primary and intermediate grades in each school division shall include the minimum skills objectives in reading, communications with emphasis on writing, grammar, listening and speaking, and mathematical skills which are appropriate for each child and which should be achieved or exceeded in the primary and intermediate grades.

C. The program of instruction in grades 7 through 12 shall assist students in developing at least minimum competence in the following areas:

1. Reading, writing and speaking;
2. Mathematical concepts and computations;
3. Essential skills and concepts of citizenship including knowledge of history and government, necessary for responsible participation in American society and within the world community;
4. Knowledge and skills needed to qualify for further education and/or employment.

Special emphasis shall be given to instructional activities which improve the reading, writing, speaking and mathematical skills of students.

WASHINGTON

Section 28A.05.010. Common school curriculum--Fundamentals in conduct. All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, English grammar, physiology and hygiene with special reference to the effects of alcoholic stimulants and narcotics on the human system, the history of the United States, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise, and the worth of kindness to all living creatures.

Section 28A.05.015. Students taught in English language--Exception. All students in the common schools of the state of Washington shall be taught in the English language: Provided, That nothing in this section

shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student.

Section 28A.05.030. Physical education in grades one through eight. Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule or regulation of the state board of education: Provided, That individual pupils or students may be excused on account of physical disability, religious belief or participation in directed athletics.

Section 28A.05.040. Physical education in high schools. All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule or regulation of the state board of education: Provided, That individual students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics: Provided further, That individual high school students shall be excused therefrom upon the written request of parents or guardians.

Section 28A.05.050. History and government in high schools. To promote good citizenship and a greater interest in and better understanding of our national and state institutions and system of government, the state board of education shall prescribe a one-year course of study in the history and government of the United States, and the equivalent of a one-semester course of study in the state of Washington's history and government. No person shall be graduated from high school without completing such courses of study: Provided, That students in the twelfth grade who have not completed such a course of study in Washington's history and state government because of previous residence outside the state may have the foregoing requirement waived by their principal.

Section 28A.05.060. High school graduation requirements or equivalencies--Temporary exemptions--Reevaluation and report by state board of education.

(1) The state board of education shall establish high school graduation requirements or equivalencies for students who commence the ninth grade subsequent to July 1, 1985, that meet or exceed the following:

SUBJECT	CREDITS	YEARS*
English	9	3
Mathematics	6	2
Social Studies		
United States history and government	3	1
Washington state history and government	1½	½
Contemporary world history, geography, problems	3	1
Science (3 credits must be in laboratory science)	6	2
Occupational Education	3	1
Physical Education (See 28A.05.040 for requirements.)		

WEST VIRGINIA

Section 18-2-7. Courses of study; language of instruction.

The state board of education shall prescribe minimum standards in the courses of study to be offered in elementary schools, high schools, vocational schools, and in all other kinds, grades, and classes of schools, or departments thereof, which may now or hereafter be maintained in the State, in whole or in part, from any state fund or funds: Provided, however, that the courses of study in the state educational institutions shall be prepared by the faculties, teachers, or other constituted authority thereof, and shall, before going into effect, be submitted to the state board of education for its approval, except that the courses of study prepared for the West Virginia University shall be submitted to the board of governors of the university for its approval. The basic language of instruction in the common school branches in all schools, public, private and parochial, shall be the English language only.

Section 18-2-8. Course of study in fire prevention.

The state board of education shall, with the advice of the state superintendent of schools, prescribe a course of study in fire prevention for use in the public, private and parochial schools of this State, dealing with the protection of lives and property against loss or damage as a result of preventable fires. It shall be the duty of the county superintendent, board of education, directors, trustees, or other committees or persons having control of public, private and parochial schools in each county, village, city or school district, to arrange for such course of study in fire prevention and to compel its use in each school under their control or direction.

Section 18-2-9. Required courses of instruction; violation and penalty.

In all public, private, parochial and denominational schools located within this State there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. Such schools shall also give regular courses of instruction in the history of the United States, in civics, and in the Constitutions of the United States and of the State of West Virginia, for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The state board of education shall, with the advice of the state superintendent of schools, prescribe the courses of study covering these subjects for the public elementary and grammar schools, public high schools and state normal schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools.

The state board of education shall cause to be taught in all of the public schools of this State the subject of scientific temperance, including the nature of alcoholic drinks and narcotics, with special instruction as to their effect upon the human system and upon society in general; and the textbooks on the subjects of health and hygiene, biology and the social sciences, adopted for use in the public schools of the State, shall contain appropriate material for such teaching.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding ten dollars for each violation, and each week during which there is a violation shall constitute a separate offense. If the person so convicted occupy a position in connection with the public schools, he shall be ineligible for reappointment to that or a similar position for the period of one year.

WISCONSIN

Section 44.04.

(1) The historical society, as part of its program as an educational institution, shall offer to the schools in this state such materials as it shall prepare or make available to facilitate instruction in the history and civil government of Wisconsin.

Section 115.28.

Develop an educational assessment program to measure objectively the adequacy and efficiency of educational programs offered by public schools in this state. The program shall include methods by which pupil achievement in reading, mathematics, writing, science, social science and other areas of instruction commonly offered by public schools, will be objectively measured each year. Assessment shall be undertaken at several grade levels on a uniform, state-wide basis.

Section 118.01. Educational goals and expectations.

(1) PURPOSE. Public education is a fundamental responsibility of the state. The constitution vests in the state superintendent the supervision of public instruction and directs the legislature to provide for the establishment of district schools. The effective operation of the public schools is dependent upon a common understanding of what public schools should be and do. Establishing such goals and expectations is a necessary and proper complement to the state's financial contribution to education. Each school board should provide curriculum, course requirements and instruction consistent with the goals and expectations established under sub. (2). Parents and guardians of pupils enrolled in the school district share with the state and school board the responsibility for pupils meeting the goals and expectations under sub. (2).

(2) EDUCATIONAL GOALS. (a) Academic skills and knowledge. Since the development of academic skills and knowledge is the most important goal for schools, each school board shall provide an instructional program designed to give pupils:

1. Basic skills, including the ability to read, write, spell, perform basic arithmetical calculations, learn by reading and listening and communicate by writing and speaking.

2. Analytical skills, including the ability to think rationally, solve problems, use various learning methods, gather and analyze information, make critical and independent judgments and argue persuasively.

3. A basic body of knowledge that includes information and concepts in literature, fine arts, mathematics, natural sciences, including knowledge of the elements of agriculture and the conservation of natural resources, and social science, including knowledge of the rights and responsibilities of the family as a consumer, cooperative marketing and consumers' cooperatives.

4. The skills and attitudes that will further lifelong intellectual activity and learning.

(b) Vocational skills. Each school board shall provide an instructional program designed to give pupils:

1. An understanding of the range and nature of available occupations and the required skills and abilities.

2. Preparation to compete for entry level jobs not requiring post-secondary school education.

3. Preparation to enter job-specific vocational training programs.

4. Positive work attitudes and habits.

(c) Citizenship. Each school board shall provide an instructional program designed to give pupils:

1. An understanding of the basic workings of all levels of government, including the duties and responsibilities of citizenship.

2. A commitment to the basic values of our government, including by appropriate instruction and ceremony the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the U.S. constitution and the constitution and laws of this state.

3. The skills to participate in political life.

4. An understanding of the function of organizations in society.

5. Knowledge of the role and importance of biological and physical resources.

6. Knowledge of state, national and world history.

7. An appreciation and understanding of different value systems and cultures.

(d) Personal development. Each school board shall provide an instructional program designed to give pupils:

1. The skills needed to cope with social change.

2. Knowledge of the human body and the means to maintain lifelong health, including:

a. Knowledge of the theory and practice of physical education, including the development and maintenance of physical fitness;

- b. Knowledge of the true and comparative vitamin content of food and food and health values of dairy products and their importance for the human diet; and
 - c. Knowledge of physiology and hygiene, sanitation, the effects of controlled substances under ch. 161 and alcohol upon the human system, symptoms of disease and the proper care of the body. No pupil may be required to take instruction in these subjects if his or her parent files with the teacher a written objection thereto. Instruction in physiology and hygiene shall include instruction on sexually transmitted diseases and shall be offered in every high school.
3. An appreciation of artistic and creative expression and the capacity for self-expression.
 4. The ability to construct personal ethics and goals.
 5. Knowledge of morality and the individual's responsibility as a social being, including the responsibility and morality of family living and the value of frugality and other basic qualities and principles referred to in article I, section 22, of the constitution insofar as such qualities and principles affect family and consumer education.
 6. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances under ch. 161.

Section 118.017. Foreign language instruction.

All instruction shall be in the English language, except. . .

Section 119.22. Sex discrimination in physical education or physical training prohibited.

Courses in physical education or physical training may not discriminate on the basis of sex in the provision of necessary facilities, equipment, instruction or financial support, or the opportunity to participate in any physical education or training activity as provided in 20 U.S.C. 1681 et seq.

WYOMING

Section 21-9-101. Schools to adhere to minimum standards promulgated by state board of education.

The board of trustees of each school district within the state shall cause the schools under its jurisdiction to adhere to the minimum standards relating to educational programs promulgated by the state board of education.

Section 21-9-102. Instruction in state and federal constitutions required; satisfactory examination a prerequisite to graduation.

All schools and colleges in this state that are supported in any manner by public funds shall give instruction in the essentials of the United

States constitution and the constitution of the state of Wyoming, including the study of and devotion to American institution and ideals, and no student shall receive a high school diploma, associate degree or baccalaureate degree without previously passing a satisfactory examination on the principles of the constitution of the United States and the state of Wyoming. The instruction shall be given for at least three years in the elementary grades and for one year each in the secondary and college grades.