

VIRGINIA TEACHERS AND SCHOOL LAW

by

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(Abstract)

This study sought to assess the level of school law knowledge possessed by Virginia public school teachers in the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students. This knowledge was studied as it related to the type and recency of school law training, membership and activity in professional teachers' associations, the highest degree obtained, the grade level taught, the type of degree obtained (education/not-education), and the number of years of teaching experience.

A questionnaire was developed to collect demographic information and to assess the level of knowledge possessed by Virginia teachers. A 30 item test, consisting of 15 true-false and 15 multiple choice questions, was sent to 401 teachers throughout Virginia. Of the 401 questionnaires sent, 314 or 78.3% were returned.

The average total score on the test was 41.08%.

The means for the subareas were as follows: tort liability was 24.7%, the teacher and his/her rights was 43.7%, and legal responsibilities regarding students was 54.8%.

Analysis of variance or t-tests were used as appropriate to see if a relationship existed between knowledge of school law and each of the demographic variables. A significant difference was indicated at the .05 level or better between knowledge of school law and each of the following variables:

1. school law training,
2. grade level taught,
3. whether the undergraduate degree was earned in education or not.

A significant difference was not indicated between knowledge of school law and any of the other demographic variables.

As reported earlier the average percent correct on the test was 41.08% which is lower than the lowest score of any of the Virginia principals studied by Caldwell. This level of knowledge was considered adequate or average; therefore, the level of knowledge of school law possessed by teachers in Virginia is less than adequate.

DEDICATION

To my parents who have given me support over the years and to my wife, , and to my son, , who were very understanding and who sacrificed much to help me complete this dissertation.

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Chapter I

Introduction and

Background of the Problem

The courts have become more involved in the day to day operations of the schools in the United States.

According to Alexander and Alexander,

During the last generation Americans have witnessed an explosion of litigation effecting education. Courts have become much more actively involved in aspects of education which were heretofore left entirely to the discretion of school administrators and school boards. Teachers', students', and parents' rights have been asserted in legal actions against school authority producing a vastly expanded field of judicial precedents which have tended to reshape American education.<sup>1</sup>

The increase in the amount of school litigation is also discussed by Connors,

. . . we do live in a litigious society, and educators, as public servants, are increasingly frequent targets of litigation. Pupils and parents are suing educators for a variety cf reasons, including negligence, assault and battery, defamation, and malpractice.<sup>2</sup>

The time when the teacher is always right and the student is always wrong is definitely in the past.

According to Bednar,

In the schools, disputes that once might have been resolved informally on the basis of cooperation and mutual trust, are now subject to court-like procedures and rules designed to curb the discretion of school officials to make autonomous decisions.<sup>3</sup>

A knowledge of the law may assist teachers to protect themselves against litigation. The number of times that a teacher places himself/herself in a situation which might result in litigation is difficult to estimate. Situations which have ended up in court are almost as difficult to estimate as litigious situations that did not result in litigation. Connors estimated in 1981 that between 2,000 and 3,000 suits are brought against educators every year.<sup>4</sup> The amount of school related litigation has increased drastically over the years. Listed in Table 1 are the numbers of cases reported between 1789 and September, 1984.

During the years around 1980, which was five years after the enactment of Public Law 94-142, the number of court cases increased every year. There is considerable evidence that the enactment of Public Law 94-142 resulted in a significant increase in litigation

Table 1  
Estimated Numbers of State and Federal Court Education  
Cases (1789 through September, 1984).

Periods	Total Cases	State Court Cases	Federal Court Cases
1789-1896*	3,096	3,046	50
1897-1906	2,304	2,289	15
1907-1916	3,060	3,038	22
1916-1926	4,464	4,420	44
1926-1936	6,324	6,257	67
1936-1946	5,544	5,456	88
1946-1956	7,203	7,091	112
1956-1966	4,420	3,691	729
1966-1976	8,112	4,626	3,486
1976-1984**	7,640	5,556	2,084
Total	52,167	45,470	6,697***

Sources: American Digest System (1658-1984), Century edition, First Decennial through Ninth Decennial editions, and the General Digest, 6<sup>th</sup> series, Federal Cases, 30 vols. (1789-1880), United States Supreme Court Digest, vol. 12 and Pocket Part (1754-1984), Modern Federal Practice Digest, vol. 44 and Pocket Part, (1939-1971), West's Federal Practice Digest 2d, vol. 68 and Pocket Part (1978-1983), Clark Spurlock, Education and the Supreme Court (1955), Official Reports of the United States Supreme Court (1789-1984).

\* Note this is a 107 year period.

\*\* Note that this is an eight year period, based on the Ninth Decennial (1976-1981) and the General Digest, 6<sup>th</sup> series (1982-1964).

\*\*\* Includes cases decided by the federal district and appeals courts and the Supreme Court of the United States.

regarding schools and services for the handicapped. According to Marvel, 1632 cases involving elementary and secondary school students were filed in court between 1976 (one year after PL 94-142) and 1981. Of these cases 769 were concerned with special education, 290 with disciplinary matters, and 248 concerned athletics.<sup>5</sup> During the same period (1976-1981), 54 cases were tried in Virginia, and of these 54, 31 were concerned with handicapped students, 8 with discipline, and 15 with sports.<sup>6</sup> According to Lufler, "Cases involving pupils increased by one-third last year (1982) with much of the increase attributable to litigation concerning the rights of handicapped students."<sup>7</sup>

During 1983, the number of cases filed declined. According to Lufler, "Cases concerning the treatment of pupils continued to be decided in large numbers in 1983. For the first time in five years, however, the number did not increase over the previous year."<sup>8</sup>

### Significance of the Study

Some authorities suggest that educators have become less effective because they are afraid of being sued.

According to Alexander and Alexander,

School authorities . . . maintain that the complexity of legal precedents governing school and student relations create such a degree of uncertainty in control of students, that many teachers and administrators are hesitant to control student behavior for fear of potential litigation.<sup>9</sup>

According to Wayson,

Few teachers and principals know what the law requires. The teachers know less than the principals. Even our very ill-informed pre-service teachers are now saying that they can't do this or that 'because of the law'. We should not let fear among professionals deprive people of rights, we must help people overcome their fears.<sup>10</sup>

In some cases a teacher might see a pupil violating a school rule and might decide to look the other way because of a fear of being sued. In some circumstances an educator can also be sued if no attempt is made to get involved.

When teachers do act and get sued they do not generally violate the rule intentionally. According to Scott,

Unlawful school practices are generally not intentional but result from a lack of knowledge or misunderstanding of the law. Teachers must become informed about legal issues and standards because school law has become very complex, and teachers

are more vulnerable than ever to lawsuits.<sup>11</sup>

As a result of Wood v Strickland, not even school board members have complete immunity from being sued. According to Mr. Justice White in Wood v Strickland,

(1) while on the basis of common law tradition and public policy, school officials are entitled to a qualified good faith immunity from liability for damages under the Civil Rights Act, they are not immune from such liability if they knew or reasonably should have known that the action they took within their sphere of official responsibility would violate the constitutional rights of the student effected . . . .<sup>12</sup>

In the same court decision, the Supreme Court decided that lack of knowledge was not a justification for an act violating a student's civil rights and that actual damages could be awarded.<sup>13</sup>

According to Vacca, "Where a showing of actual injury is made . . . there may be recovery of substantial damages appropriate to compensate such injuries . . . ."<sup>14</sup>

Not only can litigation result in monetary loss to individual staff members and to the school system, but it can also result in a considerable amount of time lost from instruction. According to Bednar,

Correcting errors nearly always consumes time, disrupts plans, and frays tempers. All too often, it also destroys valuable relationships and diminishes the quality of education.<sup>15</sup>

Students, teachers, parents, and administrators involved in litigation will devote time and effort to the litigation to the detriment of the instructional program. Each day that a teacher is absent from the classroom approximately 25 students on the elementary level and over 100 students on the secondary level will not have the services of their teacher.

As Bednar stated correcting errors can destroy valuable relationships. If a school system or educator is taken to court this event will likely be covered by the news media. This may harm the schools' reputation in the community because only 28% of the adults in this country have children in public schools. The remaining 72% of the population obtain knowledge about the public schools through the media.<sup>16</sup>

Kemp recommends that detailed legal training be provided for educators. According to Kemp,

When a law is passed, when a court case is settled and there are legal ramifications - tell the schools about it. Let them know before they face the issue.<sup>17</sup>

If knowledge of current law decisions is important so is knowledge of past decisions.

Numerous other reasons have been given for teachers

to become more familiar with school law. Among them are the following:

1. According to Butterfield,

The educator of the eighties must be a new breed. They must not only be creative, innovative, and flexible, but knowledgeable of the operation and intent of our legal and judicial systems.<sup>18</sup>

2. Ogletree and Garrett reported that the decisions that teachers make on a daily basis have their genesis in law; therefore, they should have some knowledge of basic educational law.<sup>19</sup>

3. According to Dunklee and Shoop,

The law, specifically school law, is highly complex and constantly changing. Teachers must keep abreast of these changes in the law. Ignorance of the law will not protect teachers from the ramifications of improper decisions even if such improper decisions were well intended.<sup>20</sup>

The changeable nature of the law became evident during this research study when changes were made in the Commonwealth of Virginia, in the areas of teacher immunity and the use of corporal punishment. Teachers who are knowledgeable of the law will be more aware of what they need to do to avoid litigation as well as how to protect themselves from financial disaster.

In the Commonwealth of Virginia, principals have an adequate or average knowledge of school law as

determined in a study by Caldwell. According to her research, the principals scored on the average 78.1% on a 30 item true/false test.<sup>21</sup> If Wayson's previously cited statement is true (that principals posses more knowledge of school law than teachers) it would be logical to assume that Virginia teachers possess less knowledge of school law than principals. A review of the literature found no evidence concerning how much Virginia teachers know about school law. However, according to Frank M. Werling,

The percentage of Indiana public secondary school teachers who possess a fair or better level of knowledge of Indiana school law in the combined areas of teacher tenure, pupil control, and tort liability is likely between seven and fifteen.<sup>22</sup>

A fair or better level of knowledge of Indiana school law was defined as a score of 80% or better on a true-false test.

By the year 1994, new teachers in the Commonwealth of Virginia must have earned a liberal arts degree with no more than 18 credit hours in the field of education.<sup>23</sup> At present, few Virginia institutions of higher learning offer instruction in school law at the undergraduate level. (A survey of these institutions was made by Dumminger and the results are reported in

chapter two.) It would, therefore, be reasonable to assume that teachers in the future will have less exposure to school law in their undergraduate programs.

Many reasons have been presented to support the importance of knowing school law. This study attempted to discover if Virginia public school teachers are lacking in the area of school law.

#### Statement of the Problem

According to Alexander and Alexander, "The law of the school includes all those areas of jurisprudence that bear on the operation of public elementary and secondary schools in the United States."<sup>24</sup> The portion of school law which relates to Virginia teachers was the subject of this study.

This study sought to provide descriptive data regarding the level of knowledge of school law possessed by Virginia public school teachers. The level of knowledge was studied in the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students. This information made it possible to investigate relationships between the level of knowledge of school law and certain

demographic variables.

Purpose of this Study

The purpose of this study was to determine the amount of knowledge that Virginia public school teachers possess about school laws which affect them in their dealings with students, and to determine the relationship between knowledge of the law and the following:

1. type of training,
2. membership in professional teacher associations,
3. number of degrees obtained,
4. the subject or grade taught,
5. the recency of school law training,
6. the type of degree obtained,
7. the state in which the degree was obtained,
8. the length of experience of the teacher.

Information concerning law courses or legal inservices attended were collected. Information about the amount of school law instruction that is part of Virginia teacher preparation programs was also gathered.

Research Questions

The study answered the following research questions:

1. What percent of Virginia public school teachers have been exposed to training in the area of school law (inservice or course) and does this exposure significantly affect their knowledge of school law?
2. Do teachers who are members of a Virginia professional education association possess a significantly superior knowledge of school law than teachers who are not members? Do active members of the VEA or AFT possess a significantly greater knowledge of school law than teachers who are not active members?
3. Does the educational level of Virginia public school teachers significantly affect the level of school law knowledge?
4. Does the grade level taught, the type of degree obtained (education/not education), the state in which the undergraduate degree was obtained, the recency of

school law training, or the experience of the teacher significantly affect the level of school law knowledge?

Collection of Data

An instrument based on law topics which are related to 1) tort liability, 2) the teacher and his/her employment, and 3) legal responsibilities regarding students was developed. The topics to be tested were developed in four stages. First, a dissertation by Curcio, "An Analysis of the Legal Rights and Responsibilities of Virginia School Teachers", (1981), was reviewed. Second, the topics discussed in this dissertation along with recent legislation and court cases were analyzed and a list of topics was produced. Third, this list was edited to delete redundant issues. Fourth, this revised list was forwarded to Gene Truitt, Director of Legal Services for the Virginia Education Association, for his review. Truitt was asked to add or delete topics. A copy of the lists and the letter to Truitt are contained in the appendices (A, B, and C).

After the list of topics was finalized true-false and multiple choice questions were written. Each of the test items was based upon current court rulings and

state regulations.

In addition to the substantive legal questions, demographic information was requested from the participants. Demographic information requested was:

1. type of teacher training,
  2. law courses or inservices attended,
  3. subject or grade taught,
  4. degrees obtained,
  5. state in which teacher training was obtained,
  6. membership in VEA or AFT,
  7. education degree or not,
  8. years of experience in education,
  9. recency of school law training.
- Sixty-two true-false and multiple choice items were developed. The 62 items were reviewed for clarity by six Virginia Polytechnic Institute and State University doctoral students. The 62 items were then divided into two sets of 31 questions. Thirty-one of the items and the demographic questions were given to 23 teachers to answer. These 23 teachers not only answered the questions, but also critiqued the survey instrument. Another set of 23 teachers were requested to answer and

critique the demographic questions and the other 31 items. The comments from the teachers and their responses were evaluated to select the final 15 true/false and 15 multiple choice questions to be used in the study. The validity of these 30 items was then reviewed by a panel of experts.<sup>25</sup> (See Chapter Three for further details.)

Sample

A random sample of K - 12 teachers in the Commonwealth of Virginia was selected to participate in this study. A list of 471 Virginia public school teachers was obtained from the Virginia Department of Education with the approval of Lois Rubin, Director of the Research and Testing Division. These names were randomly selected from the state teacher assignment file using the S. A. S. statistical package.

The teacher assignment file is created each year in October. Each principal within the Commonwealth of Virginia is required to see to it that a form is completed on each teacher within his/her school. The information from these forms was entered into a computer and it was from this computer file that the names and

schools of the selected teachers were obtained.

Krejcie and Morgan used a formula published by the Research Division of the National Education Association to develop a table for determining sample size. The degree of accuracy used in the formula was .05. The number in the total population is the only information needed to determine the appropriate sample size.<sup>26</sup>

There were approximately 70,000 teachers in Virginia during the 1987-1988 school year. The closest number to 70,000 on the table is 75,000 and the appropriate sample for this population is 382.

Robert Keeling, Supervisor of Research for the State Department of Education, selected a percentage that he assumed would yield approximately 382 names with a few extra names. The resulting list contained 471 names. This list was then reduced to 406 names to reduce the number of surveys to be mailed out. An attempt was made to include teachers from as many school divisions as possible.

The surveys were labeled to monitor the manner in which the surveys were returned. Non-respondents were sent a post card and those who still did not respond were sent another letter and survey.

### Treatment of the Data

Analysis of variance and independent t-tests were used to test the relationships between knowledge of the law and the factors listed in the research question section of this chapter. A relationship was considered significant at the .05 level. Significant relationships were further analyzed using the Fisher's Least Significant Differences post hoc test.

### Delimitations of the Study

According to Alexander and Alexander, "To capture the essence of education law and place it in a nutshell is no mean undertaking."<sup>27</sup> It would be unrealistic to assume that teachers would be willing to take a lengthy test which tested all areas of school law; therefore, the topics were limited to tort liability, the teacher and his/her employment, and legal responsibilities regarding students.

The school law knowledge that was assessed was that portion of the law which pertains to Virginia public school teachers. This limitation was placed on the study because each state has its own regulations

concerning education. Therefore, the answers to items in a test for Virginia public school teachers would not necessarily be accurate for teachers outside of Virginia.

#### Organization of the Study

This investigation is presented in five chapters as described below:

- |             |   |
|-------------|---|
| Chapter I   | discussion of the background of the problem, its significance, and a brief description of the methodology                               |
| Chapter II  | review of relevant related research and literature  |
| Chapter III | outline of the research design and discussion of the methods and procedures that will be utilized in the data organization and analysis |
| Chapter IV  | presentation of the findings of the study   |
| Chapter V   | presentation of the conclusions and recommendations of the study  |

Endnotes

<sup>1</sup>Kern Alexander and M. David Alexander, The Law of Schools, Students, and Teachers (Minnesota: West Publishing Company, 1984), p. 1.

<sup>2</sup>Eugene T. Connors, Education Tort Liability and Malpractice (Bloomington, Indiana: Phi Delta Kappa, 1981), p. ix.

<sup>3</sup>William C. Bednar, Jr., "Preventive School Law," (Palo Alto, California: ERIC Document, Dialog Information Services, ED 268677, 1985), p. 14.

<sup>4</sup>Connors, p. ix.

<sup>5</sup>Thomas Marvel and others, "Student Litigation: A Compilation and Analysis of Civil Cases Involving Students, 1977-1981," (Palo Alto, California: ERIC Document, Dialog Information Services, ED210769, 1981), p. 1.

<sup>6</sup>Marvel, p. 17.

<sup>7</sup>Henry S. Lufler, "Pupils," (Palo Alto, California: ERIC Document, Dialog Information Services, ED251895, 1983), p. 146.

<sup>8</sup>Henry S. Lufler, "Pupils," (Palo Alto, California: ERIC Document, Dialog Information Services, ED253930, 1984).

<sup>9</sup>Kern Alexander and M. David Alexander, p. 1.

<sup>10</sup>William Wayson, "Due Process Prevents Educators Doing Only What They Should not Do," (Palo Alto, California: ERIC Document, Dialog Information Services, ED 268667, 1985), p. 292.

<sup>11</sup>Gilda Scott, "An Analysis of the Laws Affecting North Carolina Public School Teachers," (unpublished dissertation, Virginia Polytechnic Institute and State University, December, 1987), p. 1.

<sup>12</sup>Wood v. Strickland, 95 S. Ct. 992 (1975), p. 992.

<sup>13</sup>Ibid, p. 993.

<sup>14</sup>Richard S. Vacca, "Section 1983 Liability: Recent Developments in the Merger of State and Federal Remedies," (Palo Alto, California: Dialog Information Services, ED 268674, 1985), p. 5.

<sup>15</sup>Bednar, p. 7.

<sup>16</sup>Bednar, p. 6.

<sup>17</sup>Paul D. Kemp, "Public Relations in Public School Law," (Palo Alto, California: ERIC Document, Dialog Information Services, ED 268677, 1985), p. 194.

<sup>18</sup>Dennie D. Butterfield, "Children's Liberation: An Educational Dilemma in the Making," (Palo Alto, California: ERIC Document, Dialog Information Services, ED198540, 1980), p. 12.

<sup>19</sup>Earl J. Ogletree and Willie Garrett, "Teachers Knowledge of School Law," (Palo Alto, California: ERIC Document, Dialog Information Services, ED214869, 1981), p. 6.

<sup>20</sup>Dennis Dunklee and Robert Shoop, "Teacher Preparation in a Litigious Society: Implications in Times of Reform," Journal of Teacher Education, September - October, 1986, p. 58.

<sup>21</sup>M. Teressa Caldwell, "Virginia Principals and School Law," (unpublished dissertation, Virginia Polytechnic Institute and State University, December, 1986), p. 1.

<sup>22</sup>Frank M. Werling, "Knowledge of Indiana School Law Possessed by Indiana Public Secondary School Teachers," (unpublished dissertation, Ball State University, August, 1985), p. 118.

<sup>23</sup>Ad Hoc Committee Staff, Department of Education and the State Council of Higher Education, "Recommendations on the Restructured Teacher Preparation Programs in Virginia," A Report of the Board of Education and State Council of Higher Education, (September, 1988), p. iii.

<sup>24</sup>Alexander and Alexander, p. 1.

<sup>25</sup>Page Johnson (Director of Administration for the Fairfax County Public Schools), Gene Truitt (Director of Legal Services for the VEA), and Richard Vacca (Virginia Commonwealth University Professor) were the members of the panel of experts who assessed the validity of the test items. See Appendix E for the letter to the panel of experts.

<sup>26</sup>Robert V. Krejcie and Daryle M. Morgan, "Determining Sample Size for Research Activities," Educational and Psychological Measurement, 30(1970), p. 610.

<sup>27</sup>Alexander and Alexander, p. xvii.

## Chapter II

### Review of the Literature

A review of the literature was organized in the following manner:

1. Law
2. School Law
3. Education and the Constitution
4. Federal and State Court Systems
5. Teachers and the Law
6. Teacher Preparation Programs and the Law
7. Preventive School Law
8. Related Studies Since 1980

#### Law

Since the beginning of time, man has found it necessary to establish rules and regulations. The absence of such rules and regulations have on numerous occasions resulted in chaos.<sup>1</sup>

During ancient times, laws were verbal agreements. Eventually they were written and became known as Civil Codes. The Common Law System evolved in English speaking societies. This system was composed of

decisions of judges in individual cases.

Another step in the development of law as we know it today, came about when the American colonists established the Constitution. In this document, a form of government was established which is composed of three branches of government which have delineated and limited powers. In the portion of the Constitution called the Bill of Rights, the rights and freedoms of the individual are described.<sup>2</sup> All laws in the United States are evaluated in reference to the concepts contained in the Constitution and the decisions of many court cases have been based upon this document and in particular the Bill of Rights.

Numerous definitions of law have been written. According to Black's Law Dictionary, law is, That which is laid down, ordained, or established. A rule or method according to which phenomena or action co-exist or follow each other. Law, in its generic sense, is a body of rules of action or conduct prescribed by controlling authority and having binding legal force. United States Fidelity and Guaranty Co. v. Guenther, (281 US 35, 50 S. Ct. 165, 74L Ed. 683). That which must be obeyed and followed by citizens subject to sanctions or legal consequences is a law. Law is a solemn expression of the will of the supreme power of the State. California Civil Code S 22.1.<sup>3</sup>

Further definitions are included in the West Law Computer.

Carey defines law as a force to control behavior.

According to Carey,

Laws are rules of conduct which regulate and control human behavior and which are made and enforced by a government. Laws are passed for specific reasons to achieve objectives which a community, state, county, or reservation has decided are desirable for the well being of the society.<sup>4</sup>

As was mentioned, laws come into being when a need arises. These laws are derived in one of three ways: from decisions rendered by the courts, from legislation or from custom.<sup>5</sup>

The definitions of law presented so far are all encompassing definitions. Public law, private law, criminal law, and civil law are all more specific legal concepts which are defined as follows:

1. Public laws are those which affect relationships between individuals and government or society.<sup>6</sup>
2. Private laws are those laws which deal with relations between individuals.<sup>7</sup>
3. Criminal laws govern the relationships between individuals when such relationships are harmful to society and, therefore, are punished.<sup>8</sup>
4. Unlike criminal law, civil law deals with

relationships between individuals. It differs from criminal law in that civil law is "concerned with requiring a person who injures another person either physically or economically, or who damages another person's property, to pay the person for the loss."<sup>9</sup> In addition to these specific law concepts is education or school law which, in most instances, falls in the area of civil law.

#### School Law

Either school law or education law can be defined by combining the definitions of the terms education or school with the term law. According to Reutter,

Education law represents the intersection of two bodies of knowledge and practice, both absolutely integral to a flourishing society. It obviously is necessary that institutionalized education function within bounds that are recognized as the law.<sup>10</sup>

Similar to the word, "law," education is a broad term. According to Black's Law Dictionary,

Education comprehends not merely the instruction received at school or college, but the whole course of training; moral, religious, vocational, intellectual, and physical. Education may be particularly directed to either the mental, moral, or physical powers and faculties, but in its broadest and best sense relates to them all. Acquisition of all knowledge tending to train and develop the individual.<sup>11</sup>

The broad concept of school law was defined by Alexander and Alexander. According to them,

The law of the school includes all those areas of jurisprudence that bear on the operation of public elementary and secondary schools in the United States. School law as a field of study is a generic term covering a wide range of legal subject matter including the basic fields of contracts, property, torts, constitutional law, and other areas of law that directly affect the educational and administrative processes of the educational system.<sup>12</sup>

School law and education law can be used interchangeably; however, in this piece of research, the term school law was used rather than education law. These broad areas of law cannot be considered in isolation. Many school related concepts were formulated as a result of court cases which are not directly related to education.<sup>13</sup>

The vast nature of school law makes it difficult to comprehend in its entirety. This task is amplified by its mutability. According to Stelzer and Banthin, "The law is not immutable, it changes all the time. It is changing in the courts, in the U.S. Congress, and in the state legislatures."<sup>14</sup>

The part of school law that is relatively stable is its relationship to the Constitution and the structure

of the courts in which it is interpreted. These concepts are discussed in the next two sections of this chapter.

### Education and the Constitution

Nowhere in the United States Constitution is education mentioned. According to Alexander and Alexander,

The powers of the federal government are circumscribed by delegation within the Constitution, which provides 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. Education is not mentioned in the Constitution and is, therefore, presumably reserved to the states or to the people.<sup>15</sup>

The federal government has become involved in education despite the fact that education has been delegated to the states. The federal government has become involved in education based upon the following sections of the Constitution:

1. Article 1 Section 8 - the General Welfare Clause. This clause deals with taxation for the general welfare of the citizens of the United States. The federal government can appropriate monies for education, but it cannot require educational changes.<sup>16</sup>

2. Article 1 Section 10 - The Commerce Clause.

According to Alexander and Alexander,

Education can be affected by congressional action pursuant to this clause in many different ways, but most notably safety, transportation, and labor regulations have touched education.<sup>17</sup>

3. First Amendment - Education deals with the first amendment rights of freedom of religion, freedom of speech, freedom of assembly, and freedom of the press.<sup>18</sup>

4. Fourth Amendment - Search and Seizure. This amendment protects the privacy of individuals and regulates searches (e.g., student lockers).<sup>19</sup>

5. Fifth Amendment - Federal due process and protection against self incrimination are set forth in this amendment.<sup>20</sup>

6. Eighth Amendment - This amendment protects individuals from the infliction of cruel and unusual punishment.

7. Tenth Amendment - As was stated earlier, education is delegated to the states by default.

8. Fourteenth Amendment - Due Process. This amendment protects individuals from deprivation of liberties by the state without due process of law.<sup>21</sup>

9. Fourteenth Amendment - Equal Protection

According to Purvis, "The Equal Protection Clause of the Fourteenth Amendment protects these liberties against state impairment . . . "<sup>22</sup> All citizens are protected equally by the law.

Many state constitutions have portions which are similar to the Constitution. According to Purvis, "The Constitutions of most states to a large extent mimic federal law and protect individual liberties as a matter of state law."<sup>23</sup> When a conflict does exist between federal and state regulations, the federal regulation has precedent (Supremacy Clause).<sup>24</sup>

Different levels of law exist throughout our government system. Regulations proposed at any level must not conflict with regulations at a higher level. The following is the "Hierarchy of Law:"

1. Federal Constitution
2. State Constitution
3. Federal Legislation
4. State Legislation
5. Court Decisions based upon past precedent
6. Rules and regulations of federal agencies
7. Rules and regulations of state agencies
8. Local policies

## 9. Opinions of the Attorney General <sup>25</sup>

Regulations or opinions at any one of the nine levels must conform to rules and regulations at any level above it.

Every state within the United States has its own constitution and laws. Some provisions are unique to an individual state; however, according to Stelzer and Banthin, "Nevertheless, there are obvious consistencies in the education systems and education laws of the states. The Constitution and federal courts impose additional uniformities."<sup>26</sup>

### Federal and State Court Systems

#### Federal System

All of the courts can be divided into two categories, trial courts and appellate courts. The trial court is the court which initially hears the case and takes the testimony of the witnesses. The appellate court decides whether or not the trial court interpreted the law correctly in light of the facts.<sup>27</sup>

The federal court system, as well as many state court systems, exists on three levels. The United States Supreme Court is the highest federal court and

has the authority to review and overturn the decisions of lower federal courts and state courts if the decision is based upon a federal statute or the Constitution.<sup>28</sup> This court is strictly a court of appeals.

There are intermediate federal courts which are called the U. S. Courts of Appeal. The task of these courts is to review the decisions of the federal trial courts, as well as rulings from the U. S. Tax Court and a variety of federal agencies.<sup>29</sup>

The lowest federal courts are the U. S. District Courts. These courts are the trial courts or courts of original jurisdiction when a case is to be decided based upon the Constitution or federal regulations. There are 94 federal district courts. Of these 94, 89 of them are located within the 50 states. The remaining five are located in various U. S. territories and have local jurisdiction as well as federal jurisdiction.<sup>30</sup>

Not only is education influenced by the decisions of the courts, but it is also influenced when the Supreme Court refuses to hear a case. According to Reutter,

The Supreme Court also influences education when it rejects a request that it review the decision of a lower court. Such a so-called "denial of (a writ of) certiorari leaves the opinion of the state

appellate court or the court of appeals as the controlling word on the issue raised and binding on all lower courts within the jurisdiction of the court that ruled and persuasive to courts in other jurisdictions.<sup>31</sup>

When the Supreme Court refuses to hear a case, it is saying that the decision of the lower court did not violate the Constitution or federal regulations.

The Supreme Court refuses to review or upholds the decisions of the lower courts 95% to 96% of the time. There are only a few instances when the court cannot refuse to hear a case. One example of this is when a state court upholds a state statute which is believed to be contrary to the federal constitution.<sup>32</sup>

#### State System

As on the federal level, there are two kinds of courts, trial and appellate, and in many instances there are three levels of courts. According to Curcio,

The highest court of each state, also referred to as the court of last resort because its ruling is final unless a federal question is involved, is called the State Supreme Court in most of the fifty states. . . in many states, there is an intermediate level of courts between the trial and highest appellate courts.<sup>33</sup>

The lowest level of the Virginia Court System includes the general district courts and the juvenile

and domestic relations courts. The circuit courts are on the next level. These courts are the highest trial courts and also have the authority to hear civil appeals rising from the district courts.<sup>34</sup> There are 120 circuit courts throughout the Commonwealth of Virginia and all full-time judges in these circuits are elected by a majority vote of the legislature and serve for an eight-year term.<sup>35</sup>

The intermediate appellate court in Virginia is the Court of Appeals. There are ten appellate judges who are elected by the state legislature and serve for eight-year terms.<sup>36</sup>

The court of last resort is the Supreme Court in Virginia. There are seven judges on this court who are elected by the state legislature and serve for 12-year terms.<sup>37</sup>

#### Teachers and the Law

Teachers play an important role in the education of American youth. In some instances, they may correct their charges without parental consent. According to Ogletree and Garrett,

" . . . the law defines teachers as public officers who do not act as delegates of parents. As public

officials in charge of the education or training of a child they have a privilege to use force or impose reasonable confinement unrestricted by parents' prohibitions or wishes. Teachers are acting for the state or municipality . . . "38

A teacher may be legally correct in disciplining a child contrary to a parent's wishes; however, this type of action may not be prudent. A teacher who goes contrary to the wishes of a parent may find himself/herself in court even though the teacher is legally correct, or he/she may create an enemy instead of an ally.

Confusion over the rights of parents and teachers is a source of concern. According to Ogletree and Garrett,

The failure to define the work of the teacher, principal, and board members in such a way that the general public understands its scope has led to court litigations, violations of ethical standards, and endless frustration and heartache. Such failure has hindered the achievement of high standards of excellence.<sup>39</sup>

If everyone did understand his/her role and if everyone acted within the guidelines established then there would not be a need for a court system..

An act of a teacher may be within legal guidelines (e.g., paddling a student against the wishes of a parent), but it might not be the best course of action. According to Reutter,

The value judgments (something should or should not be done) essentially are derived not from law, but from considerations of educational expertise, public policy and ethics. The law tells us what is mandatory and what is permissive, not what is wise or feasible.<sup>40</sup>

There are no clear cut answers to problems facing teachers; however, the law does supply some guidelines.

Numerous reasons were presented in Chapter One for teachers to become more familiar with school law. These reasons are augmented by the following:

1. Wayson believes that some teachers are afraid to act because of fear of the law. He states that, "We should not let fear among professionals deprive people of rights; we must help people overcome their fears."<sup>41</sup>

2. As role models to students, teachers must know their rights. According to Stelzer and Banthin, "To know and reasonably exercise their rights-at home, at work, and in the community-is an important obligation of teachers, as educators and as citizens."<sup>42</sup>

3. Teachers should know about the law not only to protect themselves from negative results of litigation, but also to protect their own rights. According to a decision by the Texas Supreme Court in 1978,

Teachers of the public schools being the important element of our population that they are, the sooner and more completely they are advised on their

rights or lack of them, the better."<sup>43</sup>

4. The U. S. Supreme Court in the Wood decision suggested that knowledge of school law would help teachers to avoid the unnecessary loss of time and money responding to legal claims.<sup>44</sup>

5. Another reason for teachers to study the law is that society today is more informed than in the past and is more likely to challenge an educator's position.<sup>45</sup>

6. According to Flygare, "Tort liability may be, even for lawyers, one of the most complex and difficult fields in law. Despite this, educators need to be aware of tort law in order to protect themselves against a variety of law suits."<sup>46</sup>

7. According to Dunklee and Shoop, teachers need a working knowledge of the law to help them provide a better instruction for the students and to protect their rights and those of their students.<sup>47</sup>

8. Reutter feels that being involved in litigation is not the greatest concern for educators. According to him,

. . . good educational practices will be abandoned because of fear of lawsuits-not only fear of losing (which itself is often unfounded), but fear of costs of defense. Overcaution, rather than undercaution may have become our demon. Yet, I believe it is a demon that can be exorcised by

enlightened cooperation between educators and lawyers.<sup>48</sup>

Numerous reasons have been presented for teachers to be knowledgeable about the law and there is evidence that the last two are the most important. It is the job of educators to provide the best instruction possible for students and anything that negatively affects this task must be corrected. Issues which teachers regularly face in regard to their rights are as follows: tenure protection, reduction-in-force rights, student disciplinary options, negligence protection, freedom of speech, and privacy.<sup>49</sup>

Another area of importance to teachers is special education law. This growing area of law is difficult for many teachers. According to Thomas,

As the number of related statutes, regulations, and case law decisions grew, assimilation became increasingly difficult. Educators were being held responsible for violations of laws which had neither been fully explained nor comprehended.<sup>50</sup>

For the numerous reasons mentioned previously, it is essential that teachers be knowledgeable about school law to provide the best possible instruction for their charges. One place where teachers could receive instruction in school law is in teacher preparation programs. In the next section of this chapter, the

amount of school law taught in teacher preparation programs is discussed.

Teacher Preparation Programs and the Law

Nolte studied graduate school law students who had teaching experience. According to Jones and Semler,

Lack of public school experience did not appear to affect the score . . . . This might indicate, by inference, that the longer one spends in the public schools does not necessarily mean that we can gain knowledge of school law through experience alone.<sup>51</sup>

Other researchers have reported similar findings.

If experience is not a significant factor, then perhaps this knowledge is obtained in teacher preparation programs. Ogletree and Garrett stated that this is not true. According to them, "The student graduates from a teacher training program becomes a professional teacher, but knows little about school law and the legal rights as a teacher."<sup>52</sup> Dunklee and Shoop also agree that little school law is taught in teacher preparation programs that would prepare teachers to understand the relationships between the law and their daily activities.<sup>53</sup>

The school law courses that are currently being taught are directed to administrators and not to

classroom teachers. Dunklee and Shoop believe that a course that draws examples from classroom situations is needed.<sup>54</sup>

Dumminger, during January, 1989, surveyed the institutions of higher learning which had teacher preparation programs in the Commonwealth of Virginia.<sup>55</sup> It was discovered that the amount of school law being taught at the undergraduate level in Virginia is minimal. To assess the amount of school law currently being taught as part of teacher preparation programs in Virginia, a questionnaire was sent to the thirty-six public and private institutions in the Commonwealth who have teacher preparation programs. The names of the institutions and the names of the contact person for teacher training were obtained from the "State-Approved Teacher Preparation Programs in Virginia Colleges and Universities."<sup>56</sup>

Responses were received from 32 institutions of higher education or 88.9%. Six contact persons responded that no school law was taught as a semester course, as part of another course, or as part of a seminar.

A school law course at the undergraduate level is

not offered at any of the 32 institutions of higher learning. School law is taught as part of a course in 25 institutions, and as part of a seminar in eight institutions. Seven of these eight institutions are also included in the 25 institutions who provide school law instruction as part of a course.

There are 40 different courses in which school law is taught with no more than four courses at any one institution. The largest number of hours taught at any institution was reported to be 20 hours.

School law is taught as part of ten different seminars at the eight institutions. Most of these seminars are directly related to student teaching. Only at two institutions was it reported that more than six hours of school law was taught..

Some educators receive their training in school law through involvement in actual litigation and not, as in Virginia, as part of teacher preparation programs.<sup>57</sup> This is a shortcoming in the preparation of teachers. It has been suggested that the education profession follow the legal profession in requiring teachers to take preservice and inservice courses, or workshops in school law.<sup>58</sup> Dunklee and Shoop feel that the time to

make these changes in teacher preparation programs is now during this period of educational reform.<sup>59</sup>

A concept that encourages training in school law is that of preventive law. The definition and rationale behind this concept is the topic of the next section.

#### Preventive School Law

The basic concept of preventive law is described by Hawkins. According to Hawkins,

Rather the emphasis in preventive law is the avoidance of unnecessary law suits and the increased potential for the school district to have its actions affirmed by the courts when there is judicial intervention.<sup>60</sup>

Ignorance of a law is no excuse for violating it.

Knowledge of school law could have prevented some school-related cases. According to Dunklee and Shoop,

In examinations of education litigation, researchers have found hundreds of cases that might have been avoided if school personnel had known or practiced their responsibilities in accordance with the law.<sup>61</sup>

Kemp recommends that school, as well as communities be informed, involved, and linked together; if they are, fewer legal problems will arise. The community and educators should be made aware of legislation and court decisions as they occur and not after the issue becomes

a problem.<sup>62</sup>

Hawkins, also, agrees that preventive law is important. According to him,

The concept of preventive law makes one basic premise: the greater the use of preventive law strategies in public schools, the less the need for conflict resolution through litigation.<sup>63</sup>

Despite the fact that some feel preventive law is important, it has been implemented in few local elementary and secondary school systems.<sup>64</sup>

As was mentioned earlier the preventive law concept involves members of the community and the schools working together. This is evident in Hawkin's strategies for implementing preventive law. His five strategies are as follows:

1. Increase communication on a regular basis among teachers, administrators, and parents.
2. Improve the understanding of school law.
3. Strengthen the consistency in the implementation of policies and procedures.
4. Periodically review school district policies.
5. Develop a system for external preventive law audits.<sup>65</sup>

Implementing these strategies could result in a reduction of school-related litigation.

One of the strategies listed above is to improve the understanding of school law. In the next section of this chapter, studies concerning the amount of school law possessed by teachers are reviewed.

#### Related Studies Since 1980

Based upon an ERIC search from 1980 to the present, very few studies concerning teachers and the law have been completed. The review of the literature did not reveal a Virginia study concerning teachers and their knowledge of school law.

Blackman in 1982 reported that he surveyed 102 colleges throughout the United States to assess the amount of school law that was being taught at the graduate level. Seventy-six percent of the colleges responded and of these, 73% reported that one or more school law courses were taught either in-house or in cooperation with a law school. School law was offered only in the school of education in 54% of the institutions.<sup>66</sup> It was, however, reported that the bulk of the school law offerings seem to be in the graduate education program.<sup>67</sup>

Menacker and Pacarella surveyed Chicago public

school teachers and administrators to assess their knowledge of education related to Supreme Court cases. The average score of the 299 completed surveys on the 10-item test was 64.4%. There was neither a significant difference reported between teachers and administrators nor between elementary and secondary teachers.<sup>68</sup>

Ogletree and Garrett surveyed 125 Chicago elementary and secondary teachers. The instrument that they used was a 44 item questionnaire that dealt with tort liability, tenure, student rights, church-state relations, and teacher-board relations based on Illinois school law. According to Ogletree and Garrett,

The findings of this study indicate that teachers profited from a school law course. They were more aware of the legal rights and responsibilities than those who had not taken a school law course.<sup>69</sup>

Werling studied in more detail secondary teachers in the state of Indiana. The instrument that he used was a 30-item true-false test. The context tested was in the areas of teacher tenure, pupil control, and tort liability.<sup>70</sup> After two mailings he received a 71.8% response to the 330 surveys mailed.

The findings of Werling's study are as follows:

1. An 80% score or better was achieved by 10.6% of the respondents. The 80% level was defined by

Werling to be a fair or good level of school law knowledge.<sup>71</sup>

2. The amount of teaching experience did not significantly affect knowledge of school law.<sup>72</sup>

3. Educational training within the state of Indiana did not significantly affect the level of knowledge of Indiana School law.<sup>73</sup>

4. There was no significant difference between those who had school law training and those who did not.<sup>74</sup>

The only other study reported by Werling concerning the level of knowledge of school law possessed by teachers was the Ogletree and Garrett study which was described earlier in this section.<sup>75</sup>

Since 1980, two studies concerning Virginia school law have been conducted. Curcio in 1981 described the school laws which applied to Virginia teachers. The areas she studied included: tort liability, terms of employment, and legal responsibilities regarding students. While compiling this list she reviewed federal legislation; decisions of the Supreme Court, the Fourth United States Circuit Court of Appeals, United States Federal district courts in Virginia, and Virginia

courts of record; and legislation from the Virginia General Assembly. A list of the topics contained in this dissertation is contained in the appendix.<sup>76</sup>

Caldwell surveyed Virginia elementary and secondary principals to assess their level of Virginia school law. The population consisted of K-12 principals throughout Virginia. The sample was a stratified random sample with subjects being selected from each of the seven regions of the Commonwealth.<sup>77</sup> Of the 364 surveys, 298 surveys were analyzed.<sup>78</sup>

Caldwell constructed a 40-item true/false test to assess the level of school law knowledge. The average score was 78.1% and the scores ranged from 47.5% to 95%.<sup>79</sup> The scores on the test were analyzed in relationship to specified demographic variables and the results were as follows:

1. There was no significant relationship between knowledge of school law and the type of school law preparation.<sup>80</sup>
2. No significant difference was realized between recently trained administrators and administrators who were trained over ten years ago.<sup>81</sup>
3. A comparison of the knowledge of school law

with the educational level did not indicate a significant difference.<sup>82</sup>

4. There was no significant difference in scores among the regions of the state.<sup>83</sup>

5. Finally, there was no significant difference between knowledge of school law and the amount of administrative experience.<sup>84</sup>

Caldwell did discover that the average principals score was 78.1%, a grade of "D" in many schools. None of the demographic variables studied had a significant effect on the knowledge of school law.

### Conclusion

School law is a vast, ever-changing body of knowledge. Court decisions and legislation are dynamic. A court decision that was rendered in the 1970's will not necessarily stand through the 1980's. For example the Tinker decision was significantly changed in the 1988 Hazelwood decision.

Numerous authors have reported the importance of knowing school law. A working knowledge of school law will help teachers to avoid litigious situations, and help them protect their Constitutional rights. It is

believed by some that teachers are afraid to act and that some programs have been discarded because of the law.

At present, very few institutions provide adequate school law training at the undergraduate level. In the Commonwealth of Virginia, no school law course is offered at the undergraduate level at any of the 36 teacher preparing institutions in Virginia.

The preventive law concept is beginning to be implemented in public school systems. The major premise behind this concept is to take action before a problem arises. School employees and parents who are informed of the law and who work together are less likely to be involved in litigation.

A review of the literature has shown that only one study has been conducted to assess the level of school law knowledge possessed by public school teachers. This study was completed in the state of Indiana and reported that a small percentage of teachers in Indiana had a fair or better knowledge of school law.

From the review of the literature, one could logically conclude that it is important for teachers to be knowledgeable about school law. There is little

evidence that this is the case. Teachers appear to have a limited knowledge of school law. Virginia institutions of higher education provide very little emphasis on school law as a part of their undergraduate teacher preparation programs.

Endnotes

<sup>1</sup>John C. Carey, "Law Related Education Curriculum," 289665, 1987), p. 17.

<sup>2</sup>Ibid, p. 19.

<sup>3</sup>Black's Law Dictionary, 5<sup>th</sup> Edition (West Law Computer).

<sup>4</sup>Carey, p. 16.

<sup>5</sup>Black's Law Dictionary

<sup>6</sup>Carey, p. 25.

<sup>7</sup>Ibid

<sup>8</sup>Ibid

<sup>9</sup>Ibid

<sup>10</sup>E. Edmund Reutter, Jr., "The Supreme Court's Impact on Public Education," (Palo Alto, California: ERIC Document, Dialog Information Services, ED228717, 1982), p. 238.

<sup>11</sup>Black' Law Dictionary

<sup>12</sup>Kern Alexander and M. David Alexander, American Public School Law (Minnesota: West Publishing Company, 1984), p. 11.

<sup>13</sup>Reutter, p. 10.

<sup>14</sup>Leigh Stelzer and Joanna Banthin, "What Educators Should Know about School Law," (Palo Alto, California: ERIC Document, Dialog Information Services, ED199144, 1980), p. 9.

<sup>15</sup>Alexander and Alexander, p. 57.

<sup>16</sup>Ibid, p. 58-59.

<sup>17</sup>Ibid, p. 60.

<sup>18</sup>Johnny Purvis, and others, "School Discipline Notebook," (Palo Alto, California: ERIC Document, Dialog Information Services, ED273046, 1986), p. 28-29.

<sup>19</sup>Alexander and Alexander, p. 785.

<sup>20</sup>Ibid.

<sup>21</sup>Reutter, p. 2.

<sup>22</sup>Purvis, p. 28.

<sup>23</sup>Ibid.

<sup>24</sup>Alexander and Alexander, p. 73-75.

<sup>25</sup>M. David Alexander, Class notes for EDAE 5770, Students/Teachers and the Courts, December 2, 1987.

<sup>26</sup>Stelzer and Banthin, p. 9.

<sup>27</sup>Carey, p. 20.

<sup>28</sup>Joan L. Curcio, "An Analysis of the Legal Rights and Responsibilities of Virginia School Teachers," (unpublished dissertation, Virginia Polytechnic Institute and State University, April, 1981), p. 11.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

<sup>31</sup>Reutter, p. 2.

<sup>32</sup>Reutter, p. 3.

<sup>33</sup>Curcio, p. 14.

<sup>34</sup>Curcio, p. 15.

<sup>35</sup>The Book of the States, published biennially by the Council of State Governments, (Lexington, Kentucky: 1987).

<sup>36</sup>Ibid.

<sup>37</sup>Ibid.

<sup>38</sup>Earl J. Ogletree and Willie Garrett, "Teachers Knowledge of School Law," (Palo Alto, California: ERIC Document, Dialog Information Services, ED214869, 1981), p. 4.

<sup>39</sup>Ibid.

<sup>40</sup>Reutter, p. 239.

<sup>41</sup>William Wayson, "Due Process Prevents Educators from Doing only What They Should Not Do," (Palo Alto, California: ERIC Document, Dialog Information Services, ED268667, 1985), p. 292.

<sup>42</sup>Stelzer and Banthin, p. 9.

<sup>43</sup>Ogletree and Garrett, p. 2.

<sup>44</sup>Ogletree and Garrett, p. 3.

<sup>45</sup>Ogletree and Garrett, p. 6.

<sup>46</sup>Thomas J. Flygare, "Who Runs the Schools: Judges or Educators?" (Palo Alto, California: ERIC Document, Dialog Information Services, ED262454, 1984), p. 9.

<sup>47</sup>Dennis Dunklee and Robert Shoop, "Teacher Preparation in a Litigious Society: Implications in Times of Reform," Journal of Teacher Education, September - October, 1986, p. 58.

<sup>48</sup>Reutter, p. 246.

<sup>49</sup>Stelzer and Banthin, p. 8.

<sup>50</sup>Stephen B. Thomas, "Legal Issues in Special Education," (Palo Alto, California: ERIC Document, Dialog Information Services, ED254942, 1985), p. 4.

<sup>51</sup>Thomas N. Jones, Ed., and Derrel P. Semler, "School Law Update, 1986," (Palo Alto, California: ERIC Document, Dialog Information Services, ED272991, 1986), p. 256.

52 Ogletree and Garrett, p. 1.

53 Dunklee and Shoop, p. 58.

54 Dunklee and Shoop, p. 60.

55 The survey instrument used and the names of the institutions are contained in the appendix of this paper.

56 "State - Approved Teacher Preparation Programs in Virginia Colleges and Universities," Division of Teacher Education and Certification, Department of Education, Richmond, Virginia (July, 1987).

57 Dunklee and Shoop, p. 58.

58 Dunklee and Shoop, p. 59.

59 Dunklee and Shoop, p. 58.

60 Harold L. Hawkins, "Preventive Law for School Administrators," (Palo Alto, California: ERIC Document, Dialog Information Services, ED272991, 1986), p. 114.

61 Dunklee and Shoop, p. 58-59.

62 Paul D. Kemp, "Public Relations in Public School Law," (Palo Alto, California: ERIC Document, Dialog Information Services, ED268677, 1985), p. 194.

63 Jones and Semler, ED272991, p. 114.

64 Thomas N. Jones, Ed., and Darrel Semler, "School Law Update, 1985," (Palo Alto, California: ERIC Document, Dialog Information Services, ED268667, 1985).

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66 C. Robert Blackman, "The Education Law Component in Educational Administration Programs in Selected U. S. Colleges," A paper presented to the Education Law Interest Group of the National Conference of Professors of Educational Administration, Louisiana State

University, August 17, 1982.

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<sup>68</sup>Julius Menacker and Ernest Pacarella, "How Aware Are Educators of Supreme Court Decisions That Affect Them?" Phi Delta Kappan, 1983, v. 64, p. 424 - 426.

<sup>69</sup>Ogletree and Garrett, p. 9.

<sup>70</sup>Frank M. Werling, "Knowledge of Indiana School Law Possessed by Indiana Public Secondary School Teachers," (unpublished dissertation, Ball State University, October, 1985), p. 117.

<sup>71</sup>Werling, p. 107.

<sup>72</sup>Werling, p. 108.

<sup>73</sup>Werling, p. 109.

<sup>74</sup>Werling, p. 111.

<sup>75</sup>Werling, p. 16.

<sup>76</sup>Dissertation Abstracts International, v. 42, no. 5, November, 1981, p. 2269-A.

<sup>77</sup>M. Teressa Caldwell, "Virginia Principals and School Law," (unpublished dissertation, Virginia Polytechnic Institute and State University, December, 1986), p. 45.

<sup>78</sup>Caldwell, p. 54.

<sup>79</sup>Caldwell, p. 56.

<sup>80</sup>Caldwell, p. 58.

<sup>81</sup>Caldwell, p. 62.

<sup>82</sup>Caldwell, p. 65.

<sup>83</sup>Caldwell, p. 64.

<sup>84</sup>Caldwell, p. 63.

## Chapter III

### Introduction to Methodology

This study was designed to assess the knowledge of school law that Virginia teachers possess in the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students. This level of knowledge of school law was studied as it related to the type and recency of law training, membership(s) in professional education organizations, and the number of degrees obtained. The grade level taught, the type of degree obtained (education/not education), the recency of school law training, and the number of years of experience was also studied. A survey was also taken of Virginia institutions of higher learning to assess the amount of school law that is part of their teacher preparation program.

### Pre-survey Procedures

### Review of the Literature

The main source for the school law topics assessed in the survey instrument was a dissertation by Curcio entitled, "An Analysis of the Legal Rights and Responsibilities of Virginia School Teachers."

According to Curcio, "Essentially, the study identified and clarified for Virginia educators given points of law, derived from a certain nuclei of cases and legislation, which have significance for them professionally."<sup>1</sup>

An instrument based on law topics which are related to 1) tort liability, 2) the teacher and his/her employment, and 3) legal responsibilities regarding students was developed. The topics to be tested were developed in four stages. First, a dissertation by Curcio, "An Analysis of the Legal Rights and Responsibilities of Virginia School Teachers", (1981), was reviewed. Second, the topics discussed in this dissertation along with recent legislation and court cases were analyzed and a list of topics was produced. Third, this list was edited to delete redundant issues. Fourth, this revised list was forwarded to Gene Truitt, Director of Legal Services for the Virginia Education Association, for his review. Truitt was asked to add or delete topics. A copy of the lists and the letter to Truitt are contained in the appendices (A, B, and C).

A review of the literature was conducted to find actual court cases and legislation upon which the test

items were based. Some of the distractors were also taken from actual court cases.

The population to be surveyed was the set of K-12 public school teachers in the Commonwealth of Virginia. In order to accomplish this task the mail survey method was used. According to Dillman, ". . . some populations are so geographically dispersed that face to face interviews are too costly."<sup>2</sup> Interviewing enough teachers to be representative of the set of all Virginia public school teachers would be prohibitive, both in terms of time and money. As Dillman states, "The lower cost of doing surveys by mail or telephone makes it possible to base sample size on what is needed to accomplish research objectives."<sup>3</sup>

#### Test Construction

According to Fortune and Associates, there are six stages of formative evaluation of a test. These stages are:

1. Development of domain referenced test content,
2. Development of the item pool to establish the content validity,
3. Demonstration of the quality of the item pool,

4. Analysis of items,
5. Establishment of reliability,
6. Analysis of the relationship between test performance and on-the-job performance.<sup>4</sup>

The use of all six steps would help in the construction of a licensing test; however, the use of the last step is not feasible unless the researcher has a sizeable budget.

The evaluation of the content of the test must be done by the researcher and a panel of experts.

According to Gacker:

. . . items should also be subjected to a review by a panel of experts who should consider such aspects as accuracy, relevance to test specifications, technical quality of grammar, potential for offensiveness or appearance of cultural or gender bias, and readability.<sup>5</sup>

Comments by a panel of experts will improve the content validity and the readability of the test items.

Some researchers have asked the panel of experts to review the content before the field test and others have waited until after the field test. Gacker recommends that this activity be completed after the field test and subsequent revisions. This is especially important when the panel is used to establish content validity because it is important that they review the questions in final

form.<sup>6</sup>

The number of individuals who participate in the field test may be as small as 15-30. The participants should be given an opportunity to answer the questions and also to comment on the test items.<sup>7</sup> Each participant does not have to evaluate every item in the item pool. According to Gacker, "If a large number of items have been developed and testing time is limited, it is possible to administer subsets of items to different groups of examinees."<sup>8</sup> Few individuals will be willing to volunteer to evaluate a large number of questions.

#### Instrumentation

The format of the research instrument was based upon one used by Caldwell to assess the knowledge of law possessed by Virginia principals.<sup>9</sup> The instrument in this study consisted of the following three parts:

1. personal information,
2. training in school law,
3. a series of true-false and multiple choice items.

In all three sections, the respondents were asked to

circle the appropriate responses.

Most of the questions in the survey were close-ended questions. Using this type of question, according to Fowler, is usually a more satisfactory way of collecting data.<sup>10</sup> One of the reasons he gave for this was that the respondent can answer the questions more accurately if he/she knows the possible answers.<sup>11</sup> The only exceptions to this were two questions in each of the first two sections of the survey. This was done because there was no guarantee that all possible responses were listed.<sup>12</sup>

There were five options to choose from for each of the multiple-choice items. One choice for each of these was "do not know." This choice was added to reduce guessing.

The instrument was administered to forty-six teachers in Surry County and a group of doctoral students from Virginia Polytechnic Institute and State University for the following reasons:

1. to see if the questions were clearly worded and easy to understand,
2. to obtain data to assess the difficulty of the items,

3. to assess the content validity of the questions and their importance to Virginia teachers.

The comments from these individuals were used to revise the questionnaire.

The 46 teachers were randomly divided into two groups. Each group was asked to take a different, 31 item test which was composed of 15 true-false and 16 multiple choice items. Each set of 31 items was composed of items from each of the three content areas (torts, teacher and his/her employment, and students' rights).

The average score on the first 31 questions was 9.78 correct or 31.5%. The average score on the other set of 31 was 12.35 correct or 39.8%.

The final set of 30 questions was selected by comparing the number of persons in the bottom quartile who answered a particular question correctly with the number of persons in the top quartile who answered the same question correctly. A quotient was calculated for each of the 62 items by dividing the number in the bottom quartile by the number in the top quartile. (See the appendix for a copy of these calculations.) Any item whose quotient was equal to zero or greater than

one was eliminated, except in one case. This item was not eliminated because an additional item was needed in the area of tort liability.

There were thirty items in the final test. Five true-false and five multiple choice questions were selected from each of the three content areas.

#### Sample Selection and Procedure

The target population for this study was the group of Virginia public school teachers. To survey all of these teachers was beyond the limits of this study. Therefore, a simple random sample was taken. According to Borg and Gall,

A simple random sample . . . is a procedure in which all the individuals in the defined population have an independent chance of being selected as a member of the sample. By 'independent' is meant that the selection of one individual does not affect in any way the selection of any other individual.<sup>13</sup>

The first steps in this procedure were to set a minimum sample size and then to obtain access to the names of all public school teachers in Virginia.

A random sample of K - 12 teachers in the Commonwealth of Virginia was selected to participate in this study. A list of 471 Virginia public school

teachers was obtained from the Virginia Department of Education with the approval of Lois Rubin, Director of the Research and Testing Division. These names were randomly selected from the state teacher assignment file using the S. A. S. statistical package.

The teacher assignment file is created each year in October. Each principal within the Commonwealth of Virginia is required to see to it that a form is completed on each teacher within his/her school. The information from these forms was entered into a computer and it was from this computer file that the names and schools of the selected teachers were obtained.

Krejcie and Morgan used a formula published by the Research Division of the National Education Association to develop a table for determining sample size. The degree of accuracy used in the formula was .05. The number in the total population is the only information needed to determine the appropriate sample size.<sup>14</sup>

There were approximately 70,000 teachers in Virginia during the 1987-1988 school year. The closest number to 70,000 on the table is 75,000 and the appropriate sample for this population is 382.

Robert Keeling, Supervisor of Research for the

State Department of Education, selected a percentage that he assumed would yield approximately 382 names with a few extra names. The resulting list contained 471 names. This list was then reduced to 406 names to reduce the number of surveys to be mailed out. An attempt was made to include teachers from as many school divisions as possible.

A cover letter and questionnaire were sent to each of the teachers. The questionnaires were numbered and as they were returned the name of the teacher was eliminated from the list to receive further correspondence. As recommended by Dillman, a post card was sent after one week to everyone. After three weeks, a letter and a replacement questionnaire were mailed to non-respondents.<sup>15</sup> After the follow-up letter over 78.3% of the questionnaires were returned; therefore, no further communications were deemed necessary.

#### Variables

The independent variables in this study were the following:

1. training in school law,
2. membership in a Virginia teachers'

organization,

3. the number of degrees obtained,
4. the grade level taught,
5. the number of years of experience,
6. the recency of law training,
7. the type of degree obtained,
8. the state in which the undergraduate degree was obtained.

The dependent variable in this study was the total score. The subscores in the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students were reported.

#### Research Questions

The study answered the following research questions:

1. What percent of Virginia teachers have been exposed to training in the area of school law and does this exposure significantly affect their knowledge of school law?
2. Do teachers who are members of a Virginia professional education association possess a

significantly greater knowledge of school law than teachers who are not members? Do active members of the VEA or AFT possess a significantly greater knowledge of school law than teachers who are not active members?

3. Does the educational level of Virginia teachers significantly affect the level of school law knowledge?

4. Does the grade level taught, the type of degree obtained (education/not education), the location where the undergraduate degree was obtained, the number of years of teaching experience of the teacher significantly affect the level of school law knowledge?

#### Procedures for Data Analysis

Data analysis included the tabulation of a total score and a subscore on each of the three components. The components included the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students. The mean, median, and mode were tabulated for each subscore and the total score.

These scores were then analyzed to see if any of

the independent variables significantly affected the total scores. Analysis of variance or independent t-tests were used to analyze the data.

#### Research Design

During the first stage of this study legal research was used. A list of law topics was researched and from these data true/false and multiple choice questions were written.

The second stage of this study consisted of surveying 401 teachers in the Commonwealth of Virginia. Each teacher was asked to complete an information sheet and 30 item test. The scores on these tests were analyzed as described in the next section. Relationships that were significant at the .05 level were further analyzed using the Fishers LSD (Least Significant Difference) Test. This post hoc test indicated significant differences between any of the levels of the independent variables.

#### Research Question One

What percent of Virginia Teachers have been exposed to training in the area of school law and does this

exposure significantly affect their knowledge of school law?

The percentage of teachers in the training groups (college course, workshop, both course and workshop, law school, and no training) were obtained by an analysis of question one of part II. The college course category included the responses a, b, and c. The workshop category included responses d, e, f, and g. Response h designates that the individual has had training in law school. The no training category was response i. The percent of responses was tabulated for each category.

One-way analysis of variance was used to assess the relationship between law training and knowledge of school law. The independent variable was the type of training with four levels (college course, workshop, both, or no training) and the dependent variable was the total score. A descriptive table included the means and standard errors of the independent variables.

#### Research Question Two

2. Do teachers who are members of a Virginia professional education association possess a significantly greater knowledge of school law than

teachers who are not members? Do active members possess a significantly greater knowledge of school law than teachers who are not members?

One-way analysis of variance was used to assess the relationship between membership in the VEA or AFT and knowledge of school law. The independent variable was the membership in professional organizations with four levels (AFT members, VEA members, both, and neither) and the dependent variable was the total score obtained on the questionnaire. A descriptive table included means and standard errors for the total score.

An independent t-test was used to assess the relationship between active and inactive members, and their knowledge of school law. Active members were considered those individuals who chose two or more responses to question 5 of part I.

### Research Question Three

3. Does the educational level of Virginia teachers significantly affect the level of school law knowledge?

A one-way analysis of variance was used to assess the relationship between educational level of Virginia teachers and knowledge of school law. The independent

variable was the educational level with five levels (BS, MS, EdS or CAGS, EdD or PhD, and other) and the dependent variable was the total score. A descriptive table included means and standard errors for the total score.

#### Research Question Four

4. Does the grade level taught, the type of degree obtained (Ed/Not ed), the recency of law training, the location where the training was obtained, or the teaching experience of the teacher significantly affect the level of school law knowledge?

Analysis of variance was used to assess the relationship between grade level taught and knowledge of school law. The independent variable with four levels (Elementary, Middle, Secondary, and Special Education or Vocational) was the grade level taught. This information was obtained from the State Department of Education's classification of the school to which each teacher in the sample was assigned. A descriptive table included means and standard errors for the total score.

Analysis of variance was used to assess the relationship between the type of degree (education/not education). The independent variable with three levels

(education degree, liberal arts degree, and other) was the type of degree obtained. The dependent variable was the total score. A descriptive table included means and standard errors for the total score.

An independent t-test was used to assess the relationship between the location where the undergraduate degree was earned and knowledge of school law. The independent variable with two levels (in Virginia and outside of Virginia) was the location where the undergraduate degree was obtained. The dependent variable was the total score. A descriptive table included means and standard errors for the total score.

Analysis of variance was used to assess the relationship between recency of training and knowledge of school law. The independent variable was the recency of training with four levels (less than two years, two to five years, five to ten years, and greater than ten years) and the dependent variable was the total score. A descriptive table included means and standard errors for the total score.

Analysis of variance was used to assess the relationship between the length of teaching experience and knowledge of school law. The independent variable

was the three levels of experience (less than ten years, ten to twenty years, and greater than twenty years) and the dependent variable was the total score obtained on the questionnaire. A descriptive table included means and standard errors for the total score.

Endnotes

<sup>1</sup>Joan L. Curcio, "An Analysis of the Legal Rights and Responsibilities of Virginia School Teachers," (unpublished dissertation, Virginia Polytechnic Institute and State University, April, 1981), p. 2.

<sup>2</sup>Don A. Dillman, Mail and Telephone Surveys, A Wiley-Interscience Publication (New York: John Wiley and Sons, 1978), p. 5.

<sup>3</sup>Dillman, p. 5.

<sup>4</sup>Jim C. Fortune and Associates, Understanding Testing in Occupational Licensing (San Francisco: Jossey-Bass, Inc., 1985), p. 116.

<sup>5</sup>Linda Gacker and James Algira, Introduction to Classical and Modern Test Theory (New York: Holt, Rhinehart, and Winston, 1986), p. 84.

<sup>6</sup>Gacker and Algira, p. 82.

<sup>7</sup>Gacker and Algira, p. 83.

<sup>8</sup>Gacker and Algira, p. 84.

<sup>9</sup>M. Teressa Caldwell, "Virginia Principals and School Law," (unpublished dissertation, Virginia Polytechnic Institute and State University, December, 1986), p.44.

<sup>10</sup>Floyd J.Fowler, Survey Research Methods, Applied Social Research Methods (Beverly Hills: Sage Publications, 1987), p. 87.

<sup>11</sup>Fowler, p. 87.

<sup>12</sup>Dillman, p. 92.

<sup>13</sup>Walter R.Borg and Meredith D. Gall, Educational Research, An Introduction, (New York: Longman, 1983), p. 244.

<sup>14</sup>Robert V. Krejcie and Daryle W. Morgan, "Determining Sample Size for Research Activities,"

Educational and Psychological Measurement, 30(1970),  
p. 610.

<sup>15</sup>Dillman, p. 183.

## Chapter IV

### Presentation of Data

In this study, the level of knowledge of Virginia school law possessed by public elementary, middle, and senior high school teachers throughout the Commonwealth of Virginia was assessed. The knowledge of Virginia school law was divided into the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students. The teachers' knowledge was analyzed as it related to the type and recency of school law training, membership(s) in professional teacher organizations, the number of degrees obtained, the grade level taught, the type of degree obtained (education/not education), the location where the undergraduate degree was obtained, and the number of years of teaching experience.

As stated previously, the research questions proposed for this study were as follows:

1. What percent of Virginia teachers have been exposed to training in the area of school law and does this exposure significantly affect their knowledge of school law?
2. Do teachers who are members of a Virginia

professional education association possess a significantly greater knowledge of school law than teachers who are not members? Do active members of the VEA or the AFT possess a significantly greater knowledge of school law than teachers who are not active members?

3. Does the educational level of Virginia teachers significantly affect the level of school law knowledge?

4. Does the grade level taught, the type of degree obtained (education/not education), the recency of law training, the number of years of experience of the teacher, or the state in which the teacher obtained his/her undergraduate degree significantly affect the level of school law knowledge?

The instrument used to answer these questions was divided into three parts: personal information, training in school law, and a 30 item test (15 true-false and 15 multiple choice questions). A set of five true-false and 5 multiple choice questions were written for each of the three subareas (torts, the teacher and his/her employment, and legal responsibilities regarding students). A total score and subarea scores were computed for each of the 314 returned surveys.

Because of missing information, some subjects were

not able to be considered in some analyses. Two of the returned surveys did not have recognizable numbers on them; therefore, the grade level and the length of experience for these two subjects were not obtainable and were not included in the analyses regarding these two areas. One subject did not record the type of his degree; therefore, he was eliminated from the analysis of total score and the number of degrees obtained. Finally, some individuals did not respond to one or more of the questions in the test portion. These non-responses were recorded as "Do not know."

#### Sample

Four hundred six surveys were mailed and five of them were returned because three were not deliverable and two individuals refused to participate. This reduced the sample size to 401 which is still 19 more than the recommended sample size (382) discussed in Chapter Three. Of these 401 surveys, 314 or 78.30% were returned.

The teachers in the sample were employed in 99 of the 138 Virginia school divisions and in approximately 375 different schools throughout the Commonwealth of

Virginia. Fourteen or four percent of the respondents were employed in vocational or special education schools. Ninety-four or 30% were high school teachers. Sixty-nine or 22% were middle school teachers. Finally, 135 or 44% were elementary school teachers.

The average number of years of teaching experience of the respondents was 12.5 years. The individual with the most experience taught for 39 years and there were some first year teachers in the sample. There were 128 (41%) teachers with less than 10 years of experience. One hundred thirty five (43%) teachers had between 10 and 20 years of experience. The remaining 51 (16%) had more than 20 years of experience.

Slightly more than half of the respondents received their undergraduate degrees within the Commonwealth of Virginia. Forty one percent(129) of the teachers surveyed received undergraduate degrees outside of Virginia.

Seventy percent (220) of the respondents earned an undergraduate degree in education. A liberal arts degree was earned by 21%(65) and 9%(28) earned degrees in other areas such as business, science, mathematics, or industrial arts. One individual did not respond to

this question.

Two(.5%) of the respondents obtained a doctorate. Eight(3%) individuals had obtained an education specialist's degree or a certificate of advanced graduate studies. Master's degrees were held by 121(39%) and bachelor's degrees were obtained by 178(57%). Three individuals(1%) had not obtained a college degree. Each of these individuals was a vocational education teacher.

Three(1%) respondents were members of both the VEA and the AFT. Eight(3%) teachers were members of the AFT only and 207(66%) were members of the VEA only. Ninety-six(30%) were members of neither the VEA nor the AFT.

Only 42(13%) of the respondents participated in more than one of the professional organization activities listed in the questionnaire. These individuals were classified as active members of a professional teachers' organization.

A majority of the teachers in the sample, 60%(188), did not receive any training in school law. None of the teachers took an undergraduate law course and none of them had training in a law school. Nineteen percent(59) of the teachers received law training in a full semester

graduate law course. Seventeen percent(54) received law training as part of a college course or a workshop. The remaining 4%(13) had training in both a semester course and a workshop.

Eleven percent(34) of the 314 teachers received school law training within the last two years. The largest percent of teachers with training, 15%(47), received training between two and five years ago. Eight percent(25) received training between five and ten years ago. Seven percent(22) received training more than ten years ago. The remaining teachers did not receive any school law training.

#### Analysis of the Test

The development and field testing of the 30 item test is described in Chapter Three of this study. When responding to the test questions the teachers were directed to circle the best response, to circle only one response, and not to guess. When a teacher selected more than one response the answer was recorded as an incorrect response. Questions that were not answered were recorded as "Do not know" responses and these responses were scored as incorrect.

Descriptive statistics for the test are contained in Table Two. The following is a list of the definitions of the variables used in this table and in subsequent tables in this study:

1. "Ptotal" represents the percent correct on the total test.
2. "Ctotal" represents the number of correct responses on the total test.
3. "Ctort" represents the number correct on the ten tort related questions.
4. "Cteach" represents the number correct on the ten questions related to the teacher and his/her employment.
5. "Cstudent" represents the number correct on the ten student related questions.

The percent correct on the three subtests may be calculated by multiplying the number correct by ten; therefore, these were not reported.

The average score on the total test was 41.08%. The area in which the teachers were most knowledgeable was the area of legal responsibilities regarding students, followed by the area of the teacher and his/her responsibilities. The teachers were least

Table 2

**Descriptive Statistics for the Total Scores  
and Subscores on the School Law Test**

	Ptotal	Ctotal	Ctort	Cteach	Cstudent
No. of cases	314	314	314	314	314
Mean	41.08	12.32	2.47	4.37	5.48
Median	40.0	12	2	5	6
Mode	36.67	11	2	5	5
Standard Dev.	14.4	4.31	1.62	1.88	1.89
Range	76.67	23	7	9	9
Maximum	76.67	23	7	9	9
Minimum	0	0	0	0	0

"Ptotal" is the percent correct on the total test.  
 "Ctotal" is the number correct on the total test.  
 "Ctort" is the number correct on the tort questions.  
 "Cteach" is the number correct on the teacher questions.  
 "Cstudent" is the number correct on the student questions.

knowledgeable about the area of torts.

The standard deviation of each test item along with that of the total test were used to compute Cronbach's alpha coefficient. Cronbach's alpha was computed to be .725 which indicates a high internal consistency. (See Table 3 for these standard deviations.)

The mean or item difficulty along with the correlation between each item and the total score are also contained in Table 3. There were no questions that negatively correlated to the total score and there were no questions that were answered correctly or incorrectly by all respondents.

Less than 20% of the respondents correctly responded to five of the questions. On only two of the questions, did more than 80% of the respondents answer correctly. The remaining 13 questions were answered correctly by between 20% and 80% of the respondents. (See table 3). The responses to the 30 questions are discussed in more detail in Chapter five.

Table 3

Means, Standard Deviations, and Correlations  
 with the Total Score for each Test Item

Item #	Mean	Standard Deviation	Correlation w/total
1	.694	.461	.334
2	.207	.406	.338
3	.121	.327	.215
4	.238	.427	.270
5	3.833E-02	.192	.101
6	.748	.435	.378
7	.404	.492	.220
8	.398	.490	.368
9	.363	.482	.446
10	.640	.481	.420
11	.561	.497	.453
12	.586	.493	.247
13	.752	.433	.480
14	.554	.498	.418
15	.844	.363	.391
16	.271	.445	.394
17	.150	.357	.327
18	.254	.436	.374
19	.420	.494	.460
20	7.325E-02	.261	.254
21	.529	.500	.408
22	9.873E-02	.299	.149
23	.494	.501	.396
24	.048	.214	.167
25	.650	.478	.386
26	.204	.403	.338
27	.287	.453	.340
28	.337	.474	.301
29	.924	.266	.336
30	.436	.497	.205
Ctotal	12.325	4.311	1.000

Research QuestionsResearch Question One

What percent of Virginia teachers have been exposed to training in the area of school law and does this exposure significantly affect their knowledge of school law?

Each teacher was asked to tell the type of school law training, if any, that they had. They were asked to circle any of the following that applied:

- a. college/university course for undergraduate credit,
- b. college/university course for graduate credit,
- c. college/university course for non-credit,
- d. workshop,
- e. seminar,
- f. module during teacher training,
- g. school division sponsored inservice,
- h. formal legal training in a law school,
- i. no school law preparation.

If a, b, or c was selected the response was coded in as a 1 (college course). If d, e, f, or g was selected the response was coded as a 2 (workshop). A response of h was coded as a 3 (law school); however, this option was

not selected by any teacher. A 4 (no training) was coded in if letter i was circled. A 5 (course and workshop) was coded in if at least one of the college responses and one of the workshop responses were selected.

The one-way analysis of variance did reflect a high relationship between school law training and knowledge of Virginia school law. The significance level was set at the .05 level and the p value was calculated to be less than .0001 (see Table 5). According to the Fisher's LSD post hoc test (see Table 6), the scores of the individuals who had no school law training were significantly different from those who did have school law training. Those with a college law course and workshop training scored the highest, followed by those with just college training, and then those with just workshop training. The teachers with no training scored the lowest of all the groups.

Table 4

The Types of Training that Virginia Teachers  
have had in School Law

	# of Teachers	Percent
College course(s)	59	18.79
Workshop	54	17.20
Law school	0	0
No training	188	59.87
College and workshop	13	4.14
Total	314	100

Table 5

The Analysis of Variance for the Relationship  
between Knowledge of School Law and  
School Law Training

Source	DF	SS	Mean Square	F-Ratio	Prob
Training	3	440.2487	146.7495	8.46	0.0000
Error	310	5376.618	17.34393		
Total(adj)	313	5816.867			

Table 6

The Fisher's LSD Comparison Report for the Relationship  
 between Knowledge of School Law and  
 School Law Training

Code (level)	Mean	A	B	C	D
A(No training)	.380	.	S	S	S
B(Workshop)	.440	S	.	.	.
C(College)	.463	S	.	.	.
D(Both)	.500	S	.	.	.

The column headings and the row headings are defined the same. (For example, both of the As mean "no training"). An S at the intersection of a row and a column designates a significant difference between the row variable and the column variable.

Table 7

Means and Standard Errors for the Groups with  
 Different Types of School Law Training

	Ctotal	Standard Error
College	13.898	.542
Workshop	13.185	.567
No training	11.399	.304
College & workshop	15.000	1.155

Research Question Two - Part I

Do teachers who are members of a Virginia professional education association possess a significantly greater knowledge of school law than teachers who are not members?

Each teacher was asked to circle whether or not he/she was a member of VEA, AFT, or neither. A VEA only response was coded as a 1. An AFT only response was coded as a 2. There were three teachers who were members of the VEA and AFT, and these responses were coded as 3s. Finally, teachers who were not members of either organization were coded as 4s (See Table 8).

Analysis of variance indicated that there was no significant relationship between knowledge of school law and membership in VEA or AFT (See Table 9). The average of the total scores and each of the subscores were higher for non-members than for members (See Table 10).

Table 8

The Number of Teachers who are Members of the  
 Virginia Education Association or the  
 American Federation of Teachers

	Number	Percent
VEA	207	65.93
AFT	8	2.55
Both	3	.95
Neither	96	30.57
Total	314	100.00

Table 9

The Analysis of Variance for the Relationship  
 between Knowledge of School Law and  
 Membership in the VEA or AFT

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Member	3	64.19737	21.39912	1.15	.3278
Error	310	5752.669	18.557		
Total	313	5816.867			

Table 10

## Means and Standard Errors for the Groups

who are Members of the VEA or AFT

	Mean	Standard Error
VEA	12.367	.299
AFT	11.000	1.523
Both	8.333	2.487
Neither	12.469	.440

Research Question Two - Part II

Do active members of the VEA or AFT possess a significantly greater knowledge of school law than teachers who are not active members?

Each teacher was asked to select the responses that described activities in which they have participated.

The choices were as follows:

- a. recently held an office in VEA or AFT,
- b. recently served on a VEA or AFT committee,
- c. recently attended a VEA or AFT state convention,
- d. recently attended a national professional organization's convention,
- e. recently read publications of organizations affiliated with the VEA or AFT.

If more than one response was circled the individual was considered to be active and coded as a 1. All others were considered inactive and coded as 2s (See Table 11).

The unpaired t-test indicated that there was no significant relationship between the level of school law knowledge possessed by active or inactive members of the VEA or AFT (See Table 12). The members in the active group did score slightly higher than those in the

Table 11

The Number of Teachers who are Active or  
Inactive Members in the VEA or AFT

	Number	Percent
Active	42	13.38%
Inactive	272	86.62%

Table 12

The T - Test for the Relationship between Knowledge of  
School Law and Activity in the VEA or AFT

Group	Mean	Standard Deviation	T-value	Prob>F
Active	13.167	4.328	1.362	N. S.
Inactive	12.195	4.302		

inactive group (See Table 12).

Research Question Three

Does the educational level of Virginia teachers significantly affect the level of school law knowledge?

Teachers were asked to select the highest degree that they earned by circling one of the following:

- a. bachelor's degree,
- b. master's degree,
- c. certificate of advanced graduate study or education specialist degree,
- d. doctorate,
- e. other (please specify \_\_\_\_\_)

The three individuals who chose the other category possessed an education level below that of a bachelor's degree (See Table 13).

Analysis of variance indicated that there was no significant relationship between knowledge of school law and the highest degree obtained by the teacher (See Table 14). The average total score did increase slightly as the education level increased up to, but not including the doctoral level. The average number of questions answered correctly by teachers with doctorates was higher than the B. S. group but lower than the M. S.

Table 13

## The Number of Teachers by Highest Degree Earned

	Number	Percent
B. S.	178	57
M. S.	121	39
CAGS or Ed.S.	8	3
Doctorate	2	.5
Other	3	.5
Total	312	

Table 14

The Analysis of Variance for the Relationship  
between Knowledge of School Law and the  
Highest Degree Earned

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Degree	4	61.09656	15.27414	.82	N. S.
Error	307	5692.491	18.54232		
Total	311	5753.588			

Table 15  
Means and Standard Errors for the Groups by  
the Highest Degree Earned

	Mean	Standard Error
B.S.	11.983	.323
M.S.	12.727	.391
Ed.S. or CAGS	13.875	1.522
Doctorate	12.000	3.045
Other	11.667	2.486

and advanced certificate groups (See Table 15).

#### Research Question Four

Does the grade level taught, the type of degree obtained (education/non-education), the recency of law training, the location where the undergraduate degree was obtained, or the number of years of experience of the teachers significantly affect the level of school law knowledge?

#### Grade Level Taught

The teachers were divided into four categories: elementary (coded as a 1); middle, intermediate, junior high school (coded as 2); senior high (coded as a 3); and vocational or special education school(coded as a 4). This categorization was completed from the list supplied by the Virginia State Department of Education and the classification of schools in the Virginia School Directory (See Table 16).

Analysis of variance indicated that there was a significant relationship between knowledge of school law and the grade level of the teacher (See Table 17). The Fisher's LSD indicated that there was a significant difference between senior high school teachers and elementary teachers, and between senior high school

Table 16

## The Number of Teachers by Type of School

	Number	Percent
Elementary	135	43
Middle	69	22
Senior High	94	30
Special or Voc. Ed.	14	5
Total	312	

Table 17

The Analysis of Variance for the Relationship  
between Knowledge of School Law  
and the Type of School

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Degree	3	155.4825	51.8275	2.84	.0381
Error	308	5620.822	18.24942		
Total	311	5776.305			

Table 18

The Fisher's LSD Comparison Report for the  
 Relationship between Knowledge of School  
 Law and the Type of School

Summary Results = .05 Code(Level)	Mean	Level Codes A B C D
A(Senior High)	11.3936	. . S S
B(Middle)	12.2609	. . . .
C(Elementary)	12.8297	S . . .
D(Spec Ed & Voc)	14.000	S . . .

The column headings and the row headings are defined the same. (For example, both of the As mean "senior high"). An S at the intersection of a row and a column designates a significant difference between the row variable and the column variable.

Table 19  
 Means and Standard Errors for the Groups by  
 the Type of School

	Mean	Standard Error
Elementary	12.830	.368
Middle	12.261	.514
Senior High	11.394	.441
Spec & Voc Ed	14.000	1.142

teachers and vocational and special education teachers. There was no significant difference between any of the other groups (See Table 18). The vocational and special education teachers seemed to be the most knowledgeable, followed by elementary, then middle school teachers. The senior high school teachers seemed to be the least knowledgeable (See Table 19).

#### Type of Degree

The teachers were asked to select whether their undergraduate degree was a liberal arts degree, an education degree, or other type of degree. The undergraduate degrees of the individuals who selected other were in business, mathematics, vocational subjects, or science. The individuals who selected both liberal arts and education were coded as education. One individual did not respond to this question and was not included in the analyses (Table 20).

The analysis of variance indicated that there was a significant relationship between knowledge of school law and the type of undergraduate degree (Table 21). The Fisher's LSD post hoc test indicated that there was a significant difference between those with a liberal arts degree and those who have either an education or other

Table 20

The Number of Teachers by the Type of Degree  
 Earned (Education/Not-education)

	Number	Percent
Liberal Arts	65	21
Education	220	70
Other	28	9
Total	313	

Table 21

The Analysis of Variance for the Relationship  
 between Knowledge of School Law and Type of  
 Degree Earned (Education/Not-education)

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Type of Degree	2	131.4852	65.7426	3.59	.0287
Error	310	5674.292	18.30417		
Total	312	5805.777			

Table 22

The Fisher's LSD Comparison Report for the Relationship  
 between Knowledge of School Law and the Type of  
 Degree Earned (Education/Not-education)

Summary results = .05 Code(Level)	Mean	Level Codes A B C
A(Liberal Arts)	11.2	. S S
B(Education)	12.518	S . .
C(Other)	13.536	S . .

The column headings and the row headings are defined the same. (For example, both of the As mean "liberal arts"). An S at the intersection of a row and a column designates a significant difference between the row variable and the column variable.

Table 23  
 Means and Standard Errors for  
 Groups by Type of Degree

	Mean	Standard Error
Liberal Arts	11.2	.531
Education	12.518	.288
Other	13.536	.809

type of degree (Table 22). The average score for those with a liberal arts degree was lower than either of the other groups (Table 23).

#### Recency of Training

The teachers were asked to tell when they received their most recent training in school law by choosing one of the following:

- a. within the last two years,
- b. between two and five years ago,
- c. between five and ten years ago,
- d. more than ten years ago,
- e. does not apply (See Table 24).

The analysis of variance indicated that there was a significant relationship between knowledge of school law and the recency of law training (Table 25). The Fisher's LSD indicated that there was no significant difference between the five to ten year group and those with no training (Table 26). There was a difference between the no training group and the other groups except for the five to ten year group. No significant relationship was indicated, however, when the group without training was filtered out of the analysis of variance (Table 27). The individuals with the most

Table 24  
 The Number of Teachers by Recency of Training  
 in School Law

	Number	Percent
< 2 years	34	11
2 to 5 years	47	15
5 to 10 years	25	8
> 10 years	22	7
No training	185	59

Table 25  
 The Analysis of Variance for the Relationship  
 between Knowledge of School Law and the  
 Recency of Training in School Law

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Recency	4	448.1523	112.0381	6.44	.0001
Error	308	5355.164	17.3869		
Total	312	5803.316			

Table 26

The Fisher's LSD Comparison Report for the Relationship  
 between Knowledge of School Law and the  
 Recency of Training in School Law

<u>Summary results = .05</u>	<u>Mean</u>	<u>Level Codes</u>
<u>Code(Level)</u>		A B C D E
A(No training)	11.384	. . S S S
B(5 to 10 years)	12.64	. . . . .
C(2 to 5 years)	13.362	S . . . .
D(> 10 years)	14.318	S . . . .
E(< 2 years)	14.382	S . . . .

The column headings and the row headings are defined the same. (For example, both of the As mean "No training"). An S at the intersection of a row and a column designates a significant difference between the row variable and the column variable.

Table 27

The Analysis of Variance for the Relationship between  
 Knowledge of School Law and the Recency of Training  
 in School Law with the Group without Training  
 being Filtered out of the Analysis

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Recency	3	57.4619	19.15397	1.16	N. S.
Error	124	2049.413	16.52752		
Total	127	2106.875			

Table 28

Means and Standard Errors for the Groups by  
 Recency of Training

	Mean	Standard Error
< 2 years	14.382	.715
2 to 5 years	13.362	.608
5 to 10 years	12.64	.834
> 10 years	14.318	.889
No training	11.384	.307

recent training did score the highest, followed by those whose training was more than ten years ago, followed by the two to five year group, then by the five to ten year group, and finally, by the group with no training (Table 28). There was no significant difference between any of the groups with training.

#### Years of Experience

The amount of experience for each teacher was obtained from the list provided by the Virginia State Department of Education. The teachers were then grouped into the following:

- a. < 10 years,
- b. 10 to 20 years,
- c. > 10 years (See Table 29).

The analysis of variance did not indicate a significant relationship between school law knowledge and the length of teaching experience (See Table 30). The teachers with the most experience did score higher on the average, but not significantly higher, than the ones with fewer years of experience (Table 31).

Table 29

## The Number of Teachers by the Length of Experience

	Number	Percent
< 10 years	128	41
10 to 20 years	135	43
> 10 years	51	16

Table 30

The Analysis of Variance for the Relationship  
between Knowledge of School Law and the  
Length of Experience

Source	DF	SS	Mean Square	F-Ratio	Prob>F
Exper	2	4.538E-02	2.269E-03	.11	N. S.
Error	311	6.459	2.076E -02		
Total	313	6.463			

Table 31  
Means and Standard Errors for the  
Groups by Length of Experience

	Mean	Standard Error
< 10 years	12.234	.382
10 to 20 years	12.319	.372
> 20 years	12.569	.605

Location of Undergraduate Degree

Teachers were asked to circle the response that represented where they received their undergraduate degree. They were asked to indicate whether they received their undergraduate training within Virginia or outside of Virginia (See Table 32).

The unpaired t-test indicated that there was no significant relationship between the level of law knowledge possessed by teachers who earned their undergraduate degrees within Virginia to those who earned degrees outside of Virginia (See Table 33). The teachers who earned their degrees within Virginia did score slightly higher than those whose degrees were earned outside of Virginia.

Table 32

The Number of Teachers by the Location where  
they Received their Undergraduate Training

	Number	Percent
In Virginia	185	59%
Outside of Virginia	129	41%
Total	314	

Table 33

The t - test for the Relationship between Knowledge of  
School Law and the Location where the Teachers  
Received their Undergraduate Training

Group	Mean	Standard Deviation	t-value	Prob>F
Virginia	12.335	4.409	5.059E-02	.960
Outside Va.	12.310	4.183		

Recommendations for Improvement

The teachers were asked to recommend the best way to improve the knowledge of school law of Virginia teachers by choosing one of the following:

- a. college courses,
- b. workshops, and
- c. other.

Twenty-nine individuals wrote in "inservice" for answer c. These responses were coded in as workshops. One individual responded that there was no need to improve the knowledge of school law. Thirteen individuals wrote in that school law training should be mandatory for all teachers. Ten individuals wrote in that reading materials should be provided.

The recommendations of the total sample and those in the top quartile were very similar (See Tables 34 and 35). The most often recommended way to improve school law knowledge was through the use of workshops. More than 60% of each group recommended workshops as the best method.

Table 34

The Recommendations of the Total Sample Concerning Ways  
to Improve Knowledge of School Law

	Number	Percent
College courses	34	11
Workshops	216	69
Both	53	17
Workshops & Material	8	3

Table 35

The Recommendations of the Individuals who Achieved the  
Highest Scores Concerning Ways to Improve  
Knowledge of School Law

	Number	Percent
College courses	13	16
Workshops	52	64
Both	14	17
Workshops & Material	2	3
Total	81	

## Chapter V

### Summary, Discussions, Conclusions, and Recommendations

The purposes of this chapter are to present a general summary of the study, to discuss and draw conclusions from the findings, and to make recommendations for further study and implications for Virginia public school teachers.

#### Summary of the Study

This study attempted to assess the knowledge of school law possessed by Virginia public school teachers in the areas of tort liability, the teacher and his/her employment, and legal responsibilities regarding students. This knowledge was studied as it related to the type and recency of school law training, membership and activity in professional teacher education associations, the highest degree obtained, the grade level taught, the type of degree obtained (education/not-education), the location where the undergraduate degree was obtained, and the number of years of teaching experience.

The sets of data were analyzed using t-tests or analysis of variance as appropriate. The level of

significance was set at the .05 level.

A review of the literature indicated that teachers are not knowledgeable about school law. Not only will this knowledge help them to avoid litigious situations, but it will assist them to act more decisively because they will be less fearful. Knowledge of school law will help teachers to protect their own rights and those of their students, and to avoid situations that may result in personal, monetary losses and in time lost from the classroom.

#### Summary of Research Questions

The purpose of the research questions was to discover what demographic variables, if any, related to the teachers' knowledge of school law. The level of school law knowledge was assessed by a 30 item test. This test was made up of 15 true-false and 15 multiple choice questions. An equal number of true-false and multiple choice questions were used to assess the areas of torts, teachers, and students. A total score and subarea scores were computed for the 314 subjects who completed the questionnaire.

Research Question One

What percent of Virginia teachers have been exposed to training in the area of school law and does this exposure significantly affect their knowledge of school law?

The number of teachers in Virginia with some form of school law training was less than the number of teachers with no training. Sixty percent of the teachers surveyed reported that they had no training in school law.

The findings indicated there was a significant difference between the knowledge of school law and training in school law. The p-value was less than .0001. The Fisher's LSD Comparison Report indicated there was a significant difference between those with no training and those with some type of training in school law. There was no significant difference between any of the groups with training (i. e. - classes, workshops) in school law. Because the group with no training scored significantly lower than the group with training, it is highly probable that increased training in school law in the form of classes and/or workshops will improve the level of knowledge of school law possessed by Virginia

teachers.

Research Question Two - Part I

Do teachers who are members of VEA or AFT possess a significantly greater knowledge of school law than teachers who are not members?

Analysis of variance indicated that there was no significant difference between non-members and teachers who were members of the VEA, AFT, or both. The average total score of the non-members, in fact, was slightly higher than that of the members. Therefore, membership in the VEA, AFT, or both does not have a significant affect on the level of knowledge of school law.

Research Question Two - Part II

Do active members of the VEA or AFT possess a significantly greater knowledge of school law than teachers who are not active members?

The t-test indicated that there was no significant difference between active and inactive members of an education association. The mean of the active members was slightly higher than the inactive members. Therefore, being an active member does not significantly affect the level of school law knowledge possessed by Virginia teachers.

Research Question Three

Does the educational level of Virginia teachers significantly affect the level of school law knowledge?

Analysis of variance did not indicate a significant difference between the educational level (i. e. - bachelors, masters, education specialists, or doctorate) of Virginia teachers and knowledge of school law. There was, however, an increase in the mean scores of the groups as the degree level increased, if the doctoral group was excluded. Thus, the educational level of Virginia teachers does not seem to significantly affect their amount of school law knowledge.

Research Question Four

Does the grade level taught, the type of degree obtained (education/not-education), the recency of law training, or the number of years of experience of the teachers significantly affect the level of school law knowledge?

Grade Level Taught

The analysis of variance did indicate a significant difference (at the .0381 level) between the grade level

taught and knowledge of school law. The Fisher's LSD Comparison Report indicated that there was a significant difference between senior high school teachers and elementary school teachers, and between senior high school teachers, and special education and vocational teachers. No significant differences were indicated between any of the other groups. The special education and vocational teachers were found to be the most knowledgeable followed by the elementary school teachers. The senior high school teachers were found to be the least knowledgeable.

#### Type of Degree

The analysis of variance did indicate a significant difference between the type of degree (education/not-education) and the knowledge of school law. The Fisher's LSD Comparison Report indicated significant differences between the individuals with liberal arts degrees and those with education degrees, and between those with liberal arts degrees and those with other types of degrees. Thus, it is indicated that those with liberal arts degrees are less knowledgeable about school law than those with education or other types of degrees.

#### Recency of Training

The analysis of variance did indicate that there was a significant difference at the .001 level between recency of training and knowledge of school law. The Fisher's LSD Comparison Report, however, indicated that the significant relationship existed between the no training group and all of the other groups, except for the five to ten year group. When the scores of the individuals without school law training were filtered out of the analysis of variance no significant difference was indicated between any of the recency groups. The two groups with the most recent training did score higher on the average than those who were trained over 5 years ago. Therefore, the recency of training did not have a significant affect on knowledge of school law.

#### Years of Experience

The analysis of variance did not indicate a significant difference between length of teaching experience and knowledge of school law. The range of the three mean scores was only .3 of one point with the teachers with the most experience scoring the highest. Experience does not seem to significantly affect the amount of school law knowledge possessed by Virginia

teachers.

#### Location of Undergraduate Degree

The unpaired t-test indicated that there was no significant difference between the state in which the undergraduate degree was earned and knowledge of school law. The difference in the average score between the teachers who received their training in Virginia and those who did not was only .025. (The Virginia teachers did score higher.) Thus, the teachers who were trained in Virginia did not score significantly higher than those who were trained elsewhere.

#### Discussion of Questionnaire

The average percent correct on the total test was 41.08%. This average is considerably lower than the average score of the Virginia principals which was reported by Caldwell to be 78.1%.<sup>1</sup> In fact, the lowest score of any principal in the Caldwell study is higher than the average score of the Virginia teachers.<sup>2</sup>

The test items were divided into the following three categories: tort liability, the teacher and his/her rights, and responsibilities regarding students.

The teachers in the sample were most knowledgeable about responsibilities regarding students. The average score on the student related questions was 54.8%. The average score on the teacher related questions was 43.7%. The teachers in the sample were least knowledgeable about tort liability. The average score in this area was 24.7%. The reason for this low score might have been that few teachers are aware of the October, 1988 Virginia Supreme Court case (Lentz v. Morris, 372 SE. 2d 608 (Va. 1988)) which extended governmental immunity to teachers.

A break down of the responses for each of the 30 questions and the actual questions are located in the appendices. The mean for each question is located in chapter four of this study. In each of the three subareas, the two questions which were answered correctly most often and the two questions which were answered incorrectly most often are discussed in the next section of this study.

Questions 29 and 15 were the student questions that were answered correctly most often. Questions 27 and 26 were the student questions which were answered incorrectly most often.

Question 29 referred to the responsibility of reporting suspected cases of child abuse to the proper authorities. Almost all of the teachers, 92.4%, of the teachers knew that they are required to report suspected cases of child abuse. Nineteen teachers circled the "do not know" response.

Question 15 was answered correctly by 84.5% of the teachers. This question referred to the right of parents to review all academic records maintained on their children. The "do not know" response was chosen by 8.9% of the teachers.

Only 28.7% of the teachers responded correctly to question 27 which referred to the censorship of school sponsored student publications. The "do not know" response was selected by 49.7% of the teachers. Before the recent Hazelwood decision, the correct response to this question would have been "only if a reasonable forecast of disruption exists" and this response was selected by 10.2% of the teachers. It seems that very few teachers are aware of the Hazelwood decision.

The student related question that was answered incorrectly by most teachers was question 26 which dealt with a students first amendment right of freedom of

expression. The "do not know" response was selected by 52.9% of the teachers and the correct response was selected by only 20.4% of the teachers. The teachers in the sample do not seem to be aware of the control that they have over student expression as laid down by the Court.

The average score on the section concerning the teacher and his/her rights was approximately 11% less than the student related average. Questions 25 and 6 were answered correctly most often in this section and questions 24 and 22 were answered incorrectly most often.

Question 6 was answered correctly by 74.8% of the teachers and only 16.6% selected the "do not know" response. Most of the teachers in the sample do seem to be aware of the fact that teacher incompetency can extend beyond the classroom.

Question 25 was answered correctly by 65.0% of the teachers. This question dealt with sexual harassment in the work place. Only 23.9% of the teachers selected the "do not know" response.

Teachers in Virginia seem to be unaware of the rights of probationary teachers in the Commonwealth of

Virginia. Only 4.8% of the teachers in the sample knew that the only correct response to question 24 was that probationary teachers, upon written request, have the right to a conference with the superintendent and his/her designee. More than 48% of the teachers incorrectly thought that a probationary teacher has the right of appeal to the school board and to be given reasons for his/her dismissal in writing.

Another question concerning continuing contract status, question 22, was also answered incorrectly by numerous teachers. Only 9.9% of the teachers knew that the only correct response was that part time employees are not eligible for a continuing contract. Slightly more than 26% of the teachers thought that either response "a" was correct or that both "a" and "c" were correct. Response "a" was concerned with serving an additional three year probationary period if a teacher transferred to another school system within Virginia. The "do not know" response was selected by 46.2%.

The teachers were least knowledgeable about tort liability. The average score for this area was 24.7%. This is 19% less than the average score of either of the other two groups. The principals in the Caldwell study

also scored lowest on the average in the area of tort liability.<sup>3</sup> Questions 1 and 19 were the tort questions that were answered correctly most often, and questions 20 and 5 were answered incorrectly most often.

Question one was answered correctly by 69.4% of the teachers. Most of the teachers were aware that they must have the same standard of care for a child as a reasonable and prudent parent.

Less than half of the teachers (42%) knew what should be considered when deciding whether or not corporal punishment is reasonable (question 19). A larger percent of teachers (43%) chose the "do not know" response than chose the correct response. Eleven of the teachers wrote in that corporal punishment is not legal anymore in the Commonwealth of Virginia and these responses were reported as correct responses. The large number of teachers who responded "do not know" might have been a result of the recent change in the corporal punishment law in Virginia.

Teachers do not seem to be aware of the latitude that they have in the assignment of grades. Only 7% of the teachers knew that the courts have decided cases concerning the assignment of grades based upon whether

or not the school officials acted in good faith (question 20). A majority of the teachers (51.3%) thought that either a written policy was needed (24.5%) or that the decision was usually based upon whether the grades were an accurate assessment of student achievement (26.8%).

Question five was answered correctly by fewer teachers than any other question on the test. Only 3.8% of the teachers answered true to this question. Seventy-two percent of the teachers felt that the teacher would be found guilty of assault and battery if they gently kicked a student and did not injure that student.

The remaining tort-related questions were answered correctly by between 12% and 28% of the teachers. The area of tort liability is definitely an area of weakness for Virginia teachers.

Teachers in the sample selected "do not know" on the average 33.38% of the time. The "do not know" response was selected between 6.1% (question 29) and 78.3% (question 17) of the time. The teachers in the sample seemed to be most confident answering the question concerning child abuse responsibilities and

least confident answering the question about constitutional torts.

Limitations

1. There was no control over whether or not the respondents received assistance while taking the test.
2. The questions were evaluated based upon Virginia School Law.
3. The topics selected to be tested were those which are most relevant to teachers.

Findings of the Study

1. The sample consisted of 401 Virginia K-12 public school teachers. Of these 401, 314 or 78.3% of the teachers returned their questionnaires.
2. The alpha coefficient for the test was .725 which reflects a high internal consistency.
3. The teachers in the sample were employed in 99 of the 138 school divisions and in approximately 375 schools.
4. The average length of teaching experience for the teachers was 12.5 years.
5. Seventy percent of the teachers earned

undergraduate degrees in education, 21% earned liberal arts degrees, and the remaining nine percent earned degrees in other areas.

6. Forty - one percent of the teachers earned undergraduate degrees from institutions outside of Virginia.

7. Forty - two percent of the teachers had received graduate degrees in addition to the baccalaureate.

8. Sixty percent of the teachers perceived that they had not received any training in school law.

9. No institution of higher learning in Virginia offers an undergraduate law course. School law taught at the undergraduate level in institutions of higher learning is delivered as components of a broadly entitled course and provide no more than 20 hours of instruction in school law.

10. The teachers' average score on the school law test was 41.08%. The scores on the subtests were as follows: tort liability (24.7%), teacher rights (43.7%), and legal responsibilities regarding students (54.8%).

11. A significant relationship ( $p < .05$ ) was

indicated between teachers with training in school law and those without training.

12. No significant difference was realized between either members or active members of a professional teachers association and teachers who were not members.

13. The number of degrees earned, the recency of training, the number of years of experience, or the state where a teacher earned his/her undergraduate degree did not significantly affect the knowledge of school law possessed by Virginia teachers.

14. A significant difference was indicated at the .05 level between the type of degree earned (education/not-education) and knowledge of school law.

15. A significant difference at the .05 level was indicated between grade level taught and school law knowledge.

16. The teachers most often recommended that workshops be used to help improve school law.

#### Conclusions

1. Teachers in Virginia are not knowledgeable about tort liability, teacher rights, or their legal responsibilities regarding students.

2. Teachers in Virginia are not being trained in school law as part of baccalaureate requirements or during inservice training after employment.

Recommendations

1. School law is being taught on a limited basis in Virginia institutions of higher learning and the number of education hours for future graduates have been limited to 18; therefore, instruction in school law should be provided after a teacher has started teaching.

2. Consideration should be given to making school law instruction mandatory before a teacher can be recertified.

3. Inservice school law classes should be provided throughout Virginia.

4. School division inservice directors should organize school law inservice programs based upon tests similar to the one used in this study.

5. Similar studies should be conducted in other states. If teachers in other states score significantly higher than Virginia teachers, then their teacher preparation programs and/or inservice programs should be analyzed to help improve Virginia programs.

6. Further studies should be conducted to see if

there is a significant difference between knowledge of school law and teacher effectiveness in the classroom.

7. Based upon the recommendations of the teachers who participated in this study, school law literature should be provided for teachers.

8. A study similar to this one should be conducted after the new teacher certification regulations go into effect.

Endnotes

<sup>1</sup>M. Teressa Caldwell, "Virginia Principals and School Law," (unpublished dissertation, Virginia Polytechnic Institute and State University, December, 1986), p. 56.

<sup>2</sup>Caldwell, p. 56.

<sup>3</sup>Caldwell, p. 74.

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Appendix A  
**Curcio's List of Topics**

**SURVEY TOPICS** - the following topics were taken from An Analysis of the Legal Rights and Responsibilities of Virginia School Teachers by Joan Lois Curcio (1981)

**TORTS**

- \*Negligence: the intentional tort
- \*Proximate cause
- \*Standard of care
- \*The reasonable man
- \*Extraordinary or higher care
- \*Educational malpractice
- \*Defense against negligence
- \*Intentional tort: assault and battery
- \*Corporal punishment
- \*Libel and slander

**Teacher and his/her employment**

- Certification
- Terms of employment
- Contract
- Property interest in employment
- Tenure
- Teacher dismissal
  - incompetency
  - immorality
  - noncompliance with school laws and regulations
  - other good and just cause
  - conviction of a felony or any crime involving moral turpitude
- Procedural due process for teachers
  - nonrenewal of the contract: probationary teacher
  - liberty interest: tenured and non-tenured
- First amendment rights of teachers
  - freedom of speech
  - private expression
  - curriculum matters
  - other first amendment rights
- Fifth Amendment
- Substantive due process
- Equal protection
- Statutory rights
  - Title VII employment rights
  - Title IX
  - Disciplinary action: suspension of teachers
  - Grievance procedures for teachers

- Collective bargaining
- Termination of contract: resignation and RIF
- Age discrimination

#### Legal responsibilities regarding students

- \*Compulsory attendance
- \*Maintenance of order and discipline in the schools
  - \* -reasonable rules and regulations
  - \* -suspension and expulsion
  - \* -fourteenth amendment responsibilities
    - \* -procedural due process
    - \* -other property interests
    - \* -academic dismissal
    - \* -equal protection
    - \* -discrimination by testing
    - \* -discrimination in extracurricular activities
- \*Title IX
- \*First amendment responsibilities
  - \* -freedom of speech
  - \* -freedom of press
  - \* -freedom of religion
    - \* -bible distribution
    - \* -bible study
    - \* -prayer and bible reading
- \*Fourth amendment: search and seizure
- \*Other legal responsibilities toward students
  - \* -hair length regulations
  - \* -curriculum
  - \* -access to student records

To test every item on the above list would require a lengthy test; therefore, the list has been shortened to include only those items which concern teachers while they are working with students in an instructional setting. A "\*" has been placed in front of the areas to be tested.

Appendix B  
Reduced List of Topics

## SURVEY TOPICS AND CONTENT ANALYSIS

Next to each topic are the following:

1. the item number that refers to the topic,
2. a letter "a" which refers to an application level question or a letter "k" which refers to a knowledge level question.

### TORTS

Negligence: Duty #3(k), #45(a), #46(a)

Proximate cause #5(a), #44(a), #48(a)

Standard of care #4(a), #2(a), #47(a)

Extraordinary or higher care

Defense against negligence

Intentional tort: assault and battery #6(a)

Corporal punishment #7(k), #52(k)

Libel and slander #1(a), #49(k), #50(k), #51(k)

### Teacher and his/her employment

Teacher dismissal

- incompetency #8(k)
- immorality #9(k)
- noncompliance with school laws and regulations #10(k)
- other good and just cause #11(k)
- conviction of a felony or any crime involving moral turpitude

First amendment rights of teachers

- freedom of speech #13(a)
- private expression #13(a)
- curriculum matters #14(k)
- other first amendment rights #15(a)

Added topics

- teacher tenure #12(k), #17(k), #39(k)
- teacher suspension #16(k)
- copyright laws #21(k), #22(k)
- grievance policy #41(k)
- sexual harassment #42(k)
- certificate revocation #43(k)

### Legal responsibilities regarding students

Maintenance of order and discipline in the schools

- reasonable rules and regulations #18(k)
- suspension and expulsion #19(k)
- fourteenth amendment responsibilities
  - procedural due process #20(k)
  - other property interests

- academic dismissal #35(k)
- equal protection
- discrimination by testing
- discrimination in extracurricular activities #23(k)

First amendment responsibilities

- freedom of speech #24(a)
- freedom of press #25(k)
- freedom of religion #26(k), #27(k)
  - bible distribution #28(k)
  - bible study #29(k)
  - prayer and bible reading #30(k)

Fourth amendment: search and seizure #31(k), #33(a)

Additional topics

- child abuse #40(k)
- PL 94-142 #32(k), #34(k)
- student records #36(k), #37(k), #38(k)

Appendix C

Letter to Mr. Truitt

July 11, 1988

Mr. Gene Truitt  
Director of Legal Services  
Virginia Education Association

Richmond, Virginia 23219

Dear Mr. Truitt,

As we discussed on the phone on Friday I need your assistance developing a test to assess the knowledge that Virginia teachers possess in the area of school law. Hopefully this information will help us better prepare new teachers and to improve the skills of the teachers in the field.

Enclosed is a list of topics which deal with teachers and students. Please review this list and delete or add any topic(s). I am most interested in what you think will be of greatest concern to teachers and uniserv directors.

If you have been able to come up with a way for me to obtain a list of teachers in Virginia since Friday please let me know. Any assistance that you would like to give would be greatly appreciated.

I will be at .

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Virginia 24061 until July 23, 1988. After that time, I will be in Dendron, Virginia.

Thank you in advance for your assistance.

Sincerely,

James C. Dummingler

Appendix D  
Discriminant Analysis for Field Test

### Discriminant Analysis Information

After the 46 answer sheets were scored I divided them into four groups, as follows:

Group 1 - the six teachers(25%) who made the six highest scores on test A.

Group 2 - the six teachers who made the six lowest scores on test A.

Group 3 - the six teachers who made the highest scores on test B.

Group 4 - the six teachers who made the six lowest scores on test B.

A quotient was obtained for each of the 62 items using the following formula: (# in bottom 25% who answered the question correctly) divided by (# in top 25% who answered the question correctly). The following is a list of the results of these computations:

<u>Question #</u>	<u>#in top 25</u>	<u>#in bottom 25</u>	<u>Quotient</u>
1	0	0	0
2	5	4	.80
3	2	1	.50
4	3	1	.33
5	2	1	.50
6	4	3	.75
7	4	2	.50
8	3	2	.66
9	5	1	.22
10	5	3	.60
11	3	3	1.00
12	3	2	.66
13	5	0	0
14	4	3	.75
15	3	1	.33
16	6	6	1.00
17	3	3	1.00
18	0	1	...
19	5	3	.60
20	5	4	.80
21	3	3	1.00
22	2	1	.50
23	3	1	.33
24	4	1	.25
25	1	0	0
26	1	1	1.00

Question #	# in top 25	# in bottom 25	Quotient
27	1	1	1.00
28	6	5	.83
29	0	1	...
30	1	1	1.00
31	1	1	1.00

This is the end of test A. Twenty-three teachers field tested each set of items.

Question #	# in top 25	# in bottom 25	quotient
32	5	4	.80
33	0	0	...
34	2	0	0
35	1	0	0
36	2	0	0
37	5	0	0
38	6	0	0
39	3	0	0
40	3	1	.33
41	5	1	.20
42	3	1	.33
43	6	0	0
44	4	0	0
45	5	2	.40
46	0	0	0
47	5	4	.80
48	0	0	0
49	0	0	0
50	0	0	0
51	0	0	0
52	1	1	1.00
53	0	0	0
54	4	3	.75
55	0	0	0
56	3	1	.33
57	2	0	0
58	6	2	.33
59	2	0	0
60	6	5	.83
61	5	4	.80
62	1	1	1.00

The average score on test A (items 1 thru 31) was 12.35 and the average score on test B (items 32 thru 62) was 9.78.

Appendix E  
**Letter to Experts**

January 27, 1989

Mr. Eugene Truitt  
Director of Legal Services  
Virginia Education Association

Richmond, Virginia 23219

Dear Mr. Truitt,

I am a doctoral student at V.P.I. and am working under the leadership of Dr. M. David Alexander. We are in the process of assessing the level of knowledge of Virginia school law that Virginia teachers possess. When I constructed the survey I did use your suggestions concerning law topics which are pertinent to Virginia teachers and I would like to thank you again for your assistance. I would appreciate it if you could spare a few additional minutes to critique the enclosed questionnaire.

The three areas that we are attempting to test are the areas of torts, the teacher and his/her employment, and student rights. The approximate amount of time it took for a group of teachers to complete the test was twenty minutes.

I would appreciate it if you would do the following:

1. answer the thirty questions and let me know if you feel that the questions are clear.
2. critique the questions to see if they are facts that teachers should know.
3. offer any suggestions that you feel will improve the questionnaire.

If you have any questions please call me.

With your permission I would like to state in my letter that this questionnaire was endorsed by the Virginia Education Association or a statement of a similar nature. I will be more than happy to send you a copy of the results of the survey.

If you could complete this chore within a week I would appreciate it. Because your advice is important to me I will wait to go to the printer until you have time to help (assuming that you will have time). Please call me collect in the evenings or during the weekend at

My work phone is 267-2558 if you would rather call during working hours.

Sincerely,

James C. Dumminginger

Appendix F  
**Letter to Subjects**

February 28, 1989

^F1^  
^F2^  
^F3^

Dear ^F4^,

During recent years, educators have been involved in an ever increasing amount of litigation. An increasing number of disputes between parents and teachers which once were resolved informally in the schools are now being resolved in the courtrooms.

I am in the process of assessing the level of knowledge of school law that Virginia teachers possess. The questionnaire that I am using to do this was developed with the assistance of college professors, public school teachers, administrators, and V.E.A. officials.

You were randomly selected as one of the 382 teachers to represent the teachers of Virginia. I would appreciate it if you would take about twenty minutes from your busy schedule to complete the enclosed questionnaire. It is important that you complete this questionnaire without assistance.

Please mail the completed questionnaire back to me in the enclosed envelope by March 10, 1989. The number on the questionnaire is not to identify the individual. It is to keep an accurate record of the questionnaires returned.

If you would like a copy of the answers to the questionnaire please let me know. Please do not write your name on the questionnaire.

Thank you in advance for your cooperation.

Sincerely,

James C. Dummingen  
V.P.I. & S.U.

Appendix G  
Reminder Postcard

March 5, 1989

Dear ^F4^,

On February 22, 1988 I mailed you a questionnaire on Virginia School Law. If you have already completed this questionnaire and returned it to me I would like to express my sincerest appreciation. If you have not had the time to complete this task I would appreciate it if you would do so within the next three days. Your responses are a critical part of my assessment of school law possessed by Virginia teachers.

If you did not receive the questionnaire or if it has been misplaced. please let me know by calling me collect at

after 6:00 P.M.

James C. Dummingher

Appendix H

Follow up Letter to Subjects

March 27, 1989

^F1^  
^F2^  
^F3^

Dear ^F4^,

A number of teachers have mentioned to me (either by phone or letter) that they misplaced the school law questionnaire that I sent to them or that they did not receive the questionnaire until after the date that I requested that they be returned. If you fit into either of these categories, or if you can now find the time in your busy schedule to complete the survey, I would be very appreciative.

It is my goal to complete the requirements for my degree before May, 1989. Your assistance will help me achieve this goal. I hope that you had an enjoyable spring break and I hope that you will be able to help me out.

Sincerely,

James C. Dummingler  
V.P.I. & S.U.  
Doctoral Student

Appendix I

**Analysis of Responses to Questionnaire**

Percent of Teachers  
Choosing Each Response

True - False Questions

Question #	% true	% false	% ?
1	69.4	14.3	16.2
2	20.7	25.2	54.1
3	12.1	54.1	33.8
4*	45.9	21.7	30.3
5	3.8	72.0	24.2
6	8.6	74.8	16.6
7	40.4	31.2	28.3
8	29.9	39.8	30.3
9	25.8	36.3	37.9
10	64.0	7.3	28.7
11	20.1	56.1	23.9
12	16.9	58.6	24.5
13	75.2	4.5	20.4
14	15.0	55.4	29.6
15	84.4	6.7	8.9

Multiple Choice Questions

Ques. #	% A	% B	% C	% D	% E
16	27.1	1.9	5.4	25.5	40.1
17	15.0	4.5	0.3	1.9	78.3
18	12.4	7.3	3.5	25.5	51.3
19*	4.5	9.2	1.3	38.5	43.0
20	24.5	26.8	7.3	2.5	38.9
21	0.0	2.9	15.6	52.9	28.7
22	26.4	4.8	9.9	12.7	46.2
23	1.3	5.4	1.0	49.4	43.0
24	8.0	4.8	5.4	48.4	33.4
25	1.9	5.4	3.8	65.0	23.9
26	6.1	5.1	20.4	15.6	52.9
27	4.8	28.7	10.2	6.7	49.7
28	13.1	8.6	1.6	33.8	43.0
29	92.4	0.0	0.6	1.0	6.1
30	43.6	22.0	0.0	19.1	15.3

\*Some individuals wrote in that corporal punishment is no longer legal in Virginia and these responses were recorded in a separate category which was considered a correct response.

Appendix J  
Final Questionnaire

## SCHOOL LAW AND VIRGINIA PUBLIC SCHOOL TEACHERS

## Part I - Personal Information

DIRECTIONS - Please circle the letter next to the most appropriate response for each of the following questions.

1. I received my undergraduate degree
  - a. in Virginia.
  - b. outside of Virginia.
2. My undergraduate degree was a
  - a. liberal arts degree.
  - b. degree in education.
  - c. other (please specify \_\_\_\_\_)
3. The highest degree that I have earned is a
  - a. bachelor's degree.
  - b. master's degree.
  - c. certificate of advanced graduate study or education specialist degree.
  - d. doctorate.
  - e. other (please specify \_\_\_\_\_)
4. I am presently a member of (You may circle more than one.)
  - a. VEA.
  - b. AFT.
  - c. neither
5. I have (You may circle more than one.)
  - a. recently held an office in VEA or AFT.
  - b. recently served on a VEA or AFT committee.
  - c. recently attended a VEA or AFT state convention.
  - d. recently attended a national professional organization's convention.
  - e. recently read publications of organizations affiliated with the VEA or AFT.
  - f. none of the above

## Part II - Training in School Law

Directions: Please circle the letter(s) next to the most appropriate response(s) for each of the following questions. Select all responses that apply to you.

1. I have had the following school law training (On the line provided next to your response(s) please write

- the amount of time spent on school law.)
- a. college/university course for undergraduate credit.(credit hours \_\_\_\_)
  - b. college/university course for graduate credit.  
( credit hours \_\_\_\_)
  - c. college/university course for non-credit.  
(credit hours \_\_\_\_)
  - d. workshop.(clock hours \_\_\_\_)
  - e. seminar.(clock hours \_\_\_\_)
  - f. module during teacher training.(hours \_\_\_\_)
  - g. school division sponsored inservice.(hours\_\_\_\_)
  - h. formal legal training in a law school.(years \_\_\_\_)
  - i. no school law preparation
2. My most recent school law training has been
- a. within the last two years.
  - b. between two and five years ago.
  - c. between five and ten years ago.
  - d. more than ten years ago.
  - e. does not apply
3. In my opinion, the best way to improve the knowledge of school law of Virginia teachers is to provide
- a. college courses.
  - b. workshops.
  - c. other (please specify \_\_\_\_\_)

You may obtain the questions which were used to assess the level of knowledge of school law by writing a letter to Dr. James C. Dumminger, Principal of A. T. Johnson Junior High School, Westmoreland County Schools, Montross, Virginia.

Appendix K

List of Colleges Surveyed Concerning School Law

Colleges Surveyed Concerning  
Undergraduate School Law Training

Public Institutions

Christopher Newport College	Clinch Valley College
The College of William & Mary	George Mason University
James Madison University	Longwood College
Mary Washington College	Norfolk State University
Old Dominion University	Radford University
University of Virginia	Virginia Commonwealth University
Virginia State University	Virginia Tech

Private Institutions

Averett College	Bluefield College
Bridgewater College	Eastern Mennonite College
Emory and Henry College	Hampton University
Hollins College	Liberty University
Lynchburg College	Mary Baldwin College
Marymount University	Randolph-Macon College
Randolph-Macon Woman's College	Roanoke College

Saint Paul's College	Shenandoah College and Conservatory of Music
Sweet Briar College	University of Richmond
Virginia Intermont College	Virginia Union University
Virginia Wesleyan College	Washington and Lee University

Appendix L  
**Undergraduate Law Questionnaire**

School Law Preparation  
Questionnaire

Directions - Please Circle the answer to the response that corresponds most accurately to your undergraduate teacher preparation program.

1. Is school law taught as part of your teacher preparation program?

- a. YES
- b. NO

2. School law is taught

- a. AS A SEMESTER COURSE
- b. AS PART OF ANOTHER COURSE
- c. AS PART OF A SEMINAR

3. Respond to questions 3a, 3b, and 3c if you circled response

a to question 2.

3a. What is the name of the course(s)? \_\_\_\_\_

3b. How many semester hours are required? \_\_\_\_\_

3c. How many semester hours are offered? \_\_\_\_\_

4. Respond to questions 4a and 4b if you circled response

b to question 2.

4a. What is the Name of the course(s)? \_\_\_\_\_

4b. What is the approximate number of hours spent school law? \_\_\_\_\_

5. Respond to questions 5a and 5b if you circled response c to question 2.

5a. What is the name of the seminar(s)? \_\_\_\_\_

5b. What is the approximate number of hours spent on school law? \_\_\_\_\_

6. How many graduates from your teacher preparation program did you have during the 1987-1988 school year?

7. Who completed this form and what is your phone number?

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the scanned document**