

AN ANALYSIS OF SELECTED LEGAL ISSUES PERTAINING TO STUDENT
TEACHER, UNDERGRADUATE AIDE, AND GRADUATE INTERN CLINICAL
EXPERIENCES IN THE PUBLIC SCHOOLS OF THE UNITED STATES

by

R. Craig Wood,

Dissertation submitted to the Graduate Faculty of the
Virginia Polytechnic Institute and State University
in partial fulfillment of the requirements for the degree of
DOCTOR OF EDUCATION
in
Educational Administration

APPROVED:

M. David Alexander, Co-Chairman

Richard G. Salmon, Co-Chairman

Glen I. Earthman

A. P. Johnston

David L. Ross

May, 1977

Blacksburg, Virginia

ACKNOWLEDGMENTS

The researcher acknowledges with sincere appreciate the assistance, time, and effort provided by the members of his Graduate Committee. The writer is indebted to Dr. M. David Alexander and Dr. Richard G. Salmon as co-chairmen of his committee. Dr. Alexander's and Dr. Salmon's expertise, critical analyses, guidance, and time were invaluable to this writer. A special note of thanks is necessary for

, the former University Legal Counsel who offered his guidance, expertise, and criticisms throughout the study. Appreciation is also extended to Dr. Glen Earthman and Dr. A. P. Johnston who spent many hours reading various drafts and contributed invaluable suggestions for revision.

Finally, and most importantly, this writer is forever indebted to his parents who instilled the value of an education in their son, and to the writer's wife, , for her understanding and unselfish sacrifices throughout this undertaking.

TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS	ii
LIST OF TABLES.	viii
LIST OF ILLUSTRATIONS	xv
CHAPTER	
1. INTRODUCTION	1
PURPOSE OF THE STUDY	11
DEFINITION OF TERMS AS USED IN THIS STUDY.	17
LIMITATIONS.	17
THE PROCEDURE.	17
2. REVIEW OF THE RELATED LITERATURE	21
3. SPECIFIC FINDINGS	35
1a. Do local school boards have the authority to permit student teaching in the public schools?	36
1b. Do local school boards have the authority to permit undergraduate students to serve as aides in the public schools?	47
1c. Do local school boards have the authority to permit graduate students to serve as interns in the public schools?	57
2a. Is it necessary that student teachers hold a preliminary certificate issued by the state certifying agency?	67
2b. Is it necessary that undergraduate aides hold a preliminary certificate issued by the state certifying agency?	70

Chapter		Page
2c.	Is it necessary that graduate interns hold a preliminary certificate issued by the state certifying agency?	74
3a.	Are student teachers considered to be employees of the local school board while serving in their clinical experience?	78
3b.	Are undergraduate aides considered to be employees of the local school board while serving in their clinical experience?	85
3c.	Are graduate interns considered to be employees of the local school board while serving in their clinical experience?	90
4a.	May student teachers receive financial compensation from the school district during their clinical experience?	98
4b.	May undergraduate aides receive financial compensation from the school district during their clinical experience?	100
4c.	May graduate interns receive financial compensation from the school district during their clinical experience?	104
5a.	Are student teachers eligible for workmen's compensation while engaged in their clinical experience?	108
5b.	Are undergraduate aides eligible for workmen's compensation while engaged in their clinical experience?	118
5c.	Are graduate interns eligible for workmen's compensation while engaged in their clinical experience?	122
6a.	What due process guidelines are afforded student teachers if they are dismissed from their clinical experience?	125

Chapter		Page
6b.	What due process guidelines are afforded undergraduate aides if they are dismissed from their clinical experience?	138
6c.	What due process guidelines are afforded graduate interns if they are dismissed from their clinical experience?	142
7a.	What guidelines exist for student teachers if a teacher strike or other work stoppage occurs, while engaged in their clinical experience?	147
7b.	What guidelines exist for undergraduate aides if a teacher strike or other work stoppage occurs while engaged in their clinical experience?	152
7c.	What guidelines exist for graduate interns if a teacher strike or other work stoppage occurs, while engaged in their clinical experience?	159
8a.	Does the student teacher have the authority to teach without constant, immediate and direct supervision?	159
8b.	Does the undergraduate aide have the authority to aid the classroom teacher without constant, immediate, and direct supervision?	166
8c.	Does the graduate intern have the authority to assume duties without constant, immediate and direct supervision?	166
9a.	Do student teachers have authority to discipline pupils?	170
9b.	Do undergraduate aides have authority to discipline pupils?	174
9c.	Do graduate interns have authority to discipline pupils?	175

Chapter		Page
10a.	Are student teachers liable for injuries sustained by pupils under their supervision?	178
10b.	Are undergraduate aides liable for injuries sustained by pupils under their supervision?	188
10c.	Are graduate interns liable for injuries sustained by pupils under their supervision?	192
11a.	May student teachers serve as substitute teachers in the absence of the assigned cooperating teacher? May the student teacher receive payment for his/her service?	196
11b.	May undergraduate aides serve as substitute teachers during their clinical experience? May the aide receive payment for his/her service?	202
11c.	May graduate interns serve as substitute teachers during their clinical experience? May the intern receive payment for his/her service?	206
12a.	May student teachers have access to pupil records?	212
12b.	May undergraduate aides have access to pupil records?	213
12c.	May graduate interns have access to pupil records?	213
13a, b, c.	During the clinical experience are there any unique and distinct differences found to exist between student teachers, undergraduate aides, graduate interns, and regular certified teachers not addressed in the previous analysis?	216
4.	OVERALL FINDINGS AND RECOMMENDATIONS	217
5.	DESIGN OF A MODEL STATUTE	242

	Page
BIBLIOGRAPHY.	246
APPENDICES	
A TYPES AND SOURCES OF LAW--FEDERAL AND STATE COURTS.	271
B GLOSSARY.	286
C SAMPLE LETTERS.	291
VITA.	295

ABSTRACT

LIST OF TABLES

Table		Page
1.	Minimum Requirements for Lowest Regular Teaching Certificate	2
2.	Approximate Number of Individuals Engaged in Clinical Experiences for the School Year 1975-1976 in the Public Schools by State Categories	7
3.	Status of Student Teachers Regarding the Question of Whether a Local School Board has the Authority to Permit a Student Teacher in the Public Schools: A summary of Legislation, Court Decisions, State De- partment Rules and Regulations, Superinten- dent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	48
4.	Status of Undergraduate Aides Regarding the Question of Whether a Local School Board has the Authority to Permit an Undergraduate Aide in the Public Schools: A Summary of Legislation, Court Decisions, State Depart- ment Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	58
5.	Status of Graduate Interns Regarding the Question of Whether a Local School Board has the Authority to Permit a Graduate Intern in the Public Schools: A Summary of Legislation, Court Decisions, State Depart- ment Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	64

Table		Page
6.	Status of Student Teachers Regarding the Question of Whether a Student Teacher is Issued a Preliminary Certificate: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	71
7.	Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide is Issued a Preliminary Certificate: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	75
8.	Status of Graduate Interns Regarding the Question of Whether a Graduate Intern is Issued a Preliminary Certificate: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	79
9.	Status of Student Teachers Regarding the Question of Whether a Student Teacher is an Employee of Local Boards of Education: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	83
10.	Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide is an Employee of Local Boards of Education: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year.	87

Table		Page
11.	Status of Graduate Interns Regarding the Question of Whether a Graduate Intern is an Employee of Local Boards of Education: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976-1977 School Year	95
12.	Status of Student Teachers Regarding the Question of Whether a Student Teacher May Receive Financial Compensation: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, Attorneys General Opinions, and Teacher Training Institution Rules and Regulations for the United States and the District of Columbia for the 1976-1977 School Year.	101
13.	Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide May Receive Financial Compensation: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, Attorneys General Opinions, and Teacher Training Institution Rules and Regulations for the United States and the District of Columbia for the 1976-1977 School Year.	105
14.	Status of Graduate Interns Regarding the Question of Whether a Graduate Intern May Receive Financial Compensation: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, Attorneys General Opinions, and Teacher Training Institution Rules and Regulations for the United States and the District of Columbia for the 1976-1977 School Year.	109

Table	Page
15. Status of Student Teachers Regarding the Question of Whether a Student Teacher is Eligible for Workmen's Compensation: A Summary of Legislation, Court Decisions, State Department Interpretations, Superintendent Interpretations, Attorneys General Opinions, Teacher Training Institution Interpretations, and Where the Student has Legal Protection for the United States and the District of Columbia for the 1976-1977 School Year	119
16. Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide is Eligible for Workmen's Compensation: A Summary of Legislation, Court Decisions, State Department Interpretations, Superintendent Interpretations, Attorneys General Opinions, Teacher Training Institution Interpretations, and Where the Undergraduate Aide has Legal Protection for the United States and the District of Columbia for the 1976-1977 School Year.	123
17. Status of Graduate Interns Regarding the Question of Whether a Graduate Intern is Eligible for Workmen's Compensation: A Summary of Legislation, Court Decisions, State Department Interpretations, Superintendent Interpretations, Attorneys General Opinions, Teacher Training Institution Interpretations, and Where the Graduate Intern has Legal Protection for the United States and the District of Columbia for the 1976-1977 School Year.	126
18. Status of Student Teachers Regarding the Question of what Due Process Guidelines are Afforded a Student Teacher: A Summary of Possible Due Process as Employees, Court Decisions, Possible Due Process Based on Statutory Language, and Written Due Process Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976-1977 School Year	139

Table		Page
19.	Status of Undergraduate Aides Regarding the Question of What Due Process Guidelines are Afforded an Undergraduate Aide: A Summary of Possible Due Process Guidelines as Employees, Court Decisions, Possible Due Process Based on Statutory Language, and Written Due Process Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976-1977 School Year.	143
20.	Status of Graduate Interns Regarding the Question of What Due Process Guidelines are Afforded an Graduate Intern: A Summary of Possible Due Process Guidelines as Employees, Court Decisions, Possible Due Process Based on Statutory Language, and Written Due Process Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976-1977 School Year.	148
21.	Status of Student Teachers Regarding the Question of What Guidelines Exist for a Student Teacher if a Teacher Strike or Other Work Stoppage Occurs: A Summary of Written Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976-1977 School Year	153
22.	Status of Undergraduate Aides Regarding the Question of What Guidelines Exist for an Undergraduate Aide if a Teacher Strike or Other Work Stoppage Occurs: A Summary of Written Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976-1977 School Year.	156
23.	Status of Graduate Interns Regarding the Question of What Guidelines Exist for a Graduate Intern if a Teacher Strike or Other Work Stoppage Occurs: A Summary of Written Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976-1977 School Year.	160

Table		Page
24.	Status of Student Teachers Regarding the Question of Whether a Student Teacher May Teach Without Direct Supervision: A Summary of Legislation, Attorneys General Opinions, and Teacher Education Institutions Guidelines in the United States and the District of Columbia for the 1976-1977 School Year.167
25.	Status of Student Teachers Regarding the Question of Whether a Student Teacher has Authority to Discipline Pupils: A Summary of Corporal Punishment being forbidden, Student Teachers Given Authority to Discipline, Legislative Status Reflecting upon the Question, and Teacher Education Guidelines in the United States and the District of Columbia for the 1976-1977 School Year175
26.	Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide has Authority to Discipline Pupils: A Summary of Corporal Punishment being forbidden, Undergraduate Aides given Authority to Discipline, and Legislative Status Reflecting upon the Question in the United States and the District of Columbia for the 1976-1977 School Year.179
27.	Status of Graduate Interns Regarding the Question of Whether a Graduate Intern has Authority to Discipline Pupils: A Summary of Corporal Punishment being forbidden, Graduate Interns given Authority to Discipline, and Legislative Status Reflecting upon the Question in the United States and the District of Columbia for the 1976-1977 School Year.182
28.	Status of Student Teachers Regarding the Question of Student Teacher Liability for Pupil Injury: A Summary of Employee Indemnification, and School Districts which Must, May, or May Not Indemnify Student Teachers for Liability in the United States and the District of Columbia for the 1976-1977 School Year.189

Table		Page
29.	Status of Undergraduate Aides Regarding the Question of Undergraduate Aide Liability for Pupil Injury: A Summary of School Districts which Must, May, or May Not Indemnify Undergraduate Aides for Liability in the United States and the District of Columbia for the 1976-1977 School Year.	193
30.	Status of Graduate Interns Regarding the Question of Graduate Intern Liability for Pupil Injury: A Summary of School Districts which Must, May, or May Not Indemnify Graduate Interns for Liability in the United States and the District of Columbia for the 1976-1977 School Year.	197
31.	Status of Student Teachers Regarding the Question of a Student Teacher Serving as a Substitute/Receiving Payment: A Summary of State Department Rules and Regulations, Attorneys General Opinions, and Teacher Education Policies in the United States and the District of Columbia for the 1976-1977 School Year.	203
32.	Status of Undergraduate Aides Regarding the Question of an Undergraduate Aide Serving as a Substitute/Receiving Payment: A Summary of State Department Rules and Regulations, Attorneys General Opinions, and Teacher Education Policies in the United States and the District of Columbia for the 1976-1977 School Year.	207
33.	Status of Graduate Interns Regarding the Question of a Graduate Intern Serving as a Substitute/Receiving Payment: A Summary of State Department Rules and Regulations, Attorneys General Opinions, and Teacher Education Policies in the United States and the District of Columbia for the 1976-1977 School Year.	209
34.	Status of Student Teachers Regarding the Question of a Student Teacher Having Access to Pupil Records: A Summary of State Statutes in the United States and the District of Columbia for the 1976-1977 School Year	214

LIST OF ILLUSTRATIONS

Figure	Page
1 Federal Judicial System	277
2 A State Judicial System	280
3 Interrelationship of the Federal and State Court Systems	281

Chapter 1

INTRODUCTION

The placement of student teachers, undergraduate aides, and graduate interns in the public schools is a common practice throughout the United States. The age when these individuals engaged in their clinical experiences in a college or laboratory school has long since passed. The facilities of the public schools are used for these clinical experiences if for no other reasons than:

1. Educational--providing a "real world" atmosphere for these learning activities.
2. Logistical--with hundreds of thousands of individuals seeking teaching credentials, there are no other facilities to meet these demands.

Student teachers have long been in the public school classrooms of America. Every state requires a student teaching clinical experience in order to meet the minimum requirements for the lowest class of a regular teaching certificate. Contained in Table 1 is information on the minimum student teaching requirements for teacher certification of each state. In a few instances the student teaching experience is a year-long field centered clinical internship requiring student teachers to come into greater contact with the public school and the community.¹ Student teaching is required for initial teacher

¹For example, Virginia Polytechnic Institute and State University, Blacksburg, Virginia, for the elementary education program.

Table 1

Minimum Student Teaching Requirements for
Lowest Regular Teaching Certificate

State	Required number of semester hours of student teaching	Completion of an approved teacher education program (which must include student teaching)	Unique requirements
Alabama	6		
Alaska		x	
Arizona	6 ^a		
Arkansas	6		
California		x ^b	
Colorado		x	
Connecticut	6		
Delaware	6		
District of Columbia		x	
Florida	6		
Georgia	6		
Hawaii		x	
Idaho	6		
Illinois	5		
Indiana	6		
Iowa	5		
Kansas	5		
Kentucky	8		
Louisiana	4		
Maine	6		
Maryland	8		
Massachusetts	2 ^c		
Michigan	6		
Minnesota		x	

Table 1 (Continued)

State	Required number of semester hours of student teaching	Completion of an approved teacher education program (which must include student teaching)	Unique requirements
Mississippi	6		
Missouri	5		
Montana		x	
Nebraska		x	
Nevada	6		
New Hampshire		x	
New Jersey		x	
New Mexico	6		
New York			d
North Carolina			e
North Dakota	5		
Ohio	6		
Oklahoma	9		
Oregon	6		
Pennsylvania		x	
Rhode Island	6		
South Carolina	6		
South Dakota	6		
Tennessee	4		
Texas	6		
Utah	8		
Vermont	9		
Virginia	6		
Washington		x	
West Virginia	6		
Wisconsin	5		
Wyoming			f

Table 1 (Continued)

^a or two years of teaching experience

^b which must include 8 semester hours for elementary certificate/6 semester hours for secondary certificate

^c 6 semester hours for bilingual education certificate

^d A college supervised student teaching experience or 1 year of full-time teaching experience (Note: requirements do not apply to Buffalo and New York City)

^e Assumed to be included in professional education guidelines to meet competencies

^f Completion of approved teacher education guidelines for temporary certificate which includes student teaching. Fifth year program necessary for standard certificate

Source: T. M. Stinnett, A Manual on Standards Affecting School Personnel in the United States (Washington, D.C.: National Education Association, 1974) pp. 12-13 and E. H. Woellner, Requirements for Certification (Chicago: University of Chicago Press, 1974) pp. 8-232.

certification and nearly all educators have agreed on the importance of student teaching. Salmon writes, "student teaching is probably the most vital, critical, and challenging period in the pre-service preparation of a teacher."²

A recent trend in teacher pre-service preparation is the placing of undergraduate aides in the public schools. Normally this involves sophomores/juniors being placed in actual public school classrooms. Undergraduate aides are usually younger and have less educational preparation than student teachers. Generally, undergraduate aides perform duties assigned by the certified teacher within a public school classroom environment.

A more recent trend is the placement of graduate interns in the public schools. Usually, graduate interns are older and have more educational preparation by virtue of their graduate student status than student teachers or undergraduate aides. Most commonly, graduate interns serve in administrative capacities where both the amount of contact with students and potential legal problems are less.

During the last academic school year the following approximate numbers of persons were involved in these pre-service educational programs:

²Richard G. Salmon, "Student Teaching Handbook," Virginia Polytechnic Institute and State University (Blacksburg, Va.: VPI & SU, 1976), p. 29.

Individuals serving as student teachers	208,640
Individuals serving as undergraduate aides	
Individuals serving as graduate interns	<u>182,660</u>
Total number of individuals engaged in these programs	391,300

In the last academic school year, 1315 colleges or universities engaged at least one student in one or more such clinical experiences. Categories, by state, with the actual number of individuals engaged in programs by state are included in Table 2.

With such a vast number of individuals engaged in clinical experiences throughout the country, the need for clearly defined legal guidelines is almost universally recognized by teacher educators. The need for legal guidelines is heightened by an increased awareness of legalities and the wave of public school unrest that has occurred during the last ten years. Kern Alexander predicts more lawsuits in the nation's public schools because:

1. Decline in reliance on the doctrine of "sovereign immunity" (of school districts) will result in a greater volume of tort cases against employees and school districts themselves.
2. Students' increasing awareness of their legal rights, coupled with changing attitudes toward teachers and schools, suggests a greater volume of legal actions brought by students against teachers.
3. The decline in the acceptance of "in loco parentis" as a legal theory will tend to create an adversary relationship between teacher and pupil. Injured teachers may increasingly seek personal damages from pupils and/or parents for intentional as well as negligence torts.
4. In the future, teachers will increasingly insist upon statutory protection against personal liability for injuries incurred in high-risk areas of the school program.
5. There may be a rise in claims by students against other students.³

³Kern Alexander, "Tort Predictions," Nation's Schools, March 1971, pp. 55-57.

Table 2

Approximate Number of Individuals Engaged in Clinical Experiences for the
School Year 1975-1976 in the Public Schools by State Categories

State	Student teachers	Undergraduate aides	Graduate interns	Colleges/universities placing individuals in these activities
Alabama	3,000		← 3,000 ^c →	26
Alaska	131 ^b	30 ^b	18 ^b	3
Arizona	2,544 ^b	3,695 ^b	361 ^b	4
Arkansas	2,550	653 ^b	0 ^b	16
California	7,790 ^b	2,716 ^b	366 ^b	65
Colorado	3,500	a	a	15
Connecticut	4,188 ^b	1,507 ^b	229 ^b	17
Delaware	598	769	7	2
District of Columbia	498		← 7,157 ^c →	8
Florida	5,509		← 16,134 ^c →	22
Georgia	5,000		← 10,000 ^c →	32
Hawaii	1,150	650 ^b	0 ^b	4
Idaho	526 ^b	264 ^b	52 ^b	5
Illinois	10,000	20,000	1,500	64
Indiana	4,982 ^b	3,354 ^b	105 ^b	34
Iowa	3,303 ^b	5,510 ^b	39 ^b	27

Table 2--(Continued)

State	Student teachers	Undergraduate aides	Graduate interns	Colleges/universities placing individuals in these activities
Kansas	2,317 ^b	2,678 ^b	155 ^b	20
Kentucky	4,500	← 16,000 ^c →		22
Louisiana	3,436 ^b	2,665 ^b	70 ^b	20
Maine	950 ^b	464 ^b	44 ^b	16
Maryland	3,366	a	a	21
Massachusetts	4,101 ^b	2,762 ^b	350	53
Michigan	10,000	a	a	29
Minnesota	375	a	a	26
Mississippi	2,153 ^b	1,175 ^b	40 ^b	16
Missouri	3,715 ^b	2,232 ^b	197 ^b	38
Montana	900	← 1,000 ^c →		8
Nebraska	4,000 ^d	← 3,400 ^c →		15
Nevada	410	1,045	140	2
New Hampshire	1,500	358 ^b	46 ^b	14
New Jersey	6,528 ^b	2,950 ^b	149 ^b	22
New Mexico	782 ^b	77 ^b	46 ^b	8
New York	20,721	a	a	95
North Carolina	6,665	a	a	43

Table 2--(Continued)

State	Student teachers	Undergraduate aides	Graduate interns	Colleges/universities placing individuals in these activities
North Dakota	1,097 ^b	775 ^b	38 ^b	8
Ohio	10,418 ^b	10,347 ^b	1,186 ^b	52
Oklahoma	3,392 ^b	3,321 ^b	89 ^b	18
Oregon	2,501	2,026 ^b	2 ^b	14
Pennsylvania	15,000		← 4,000 ^c →	93
Rhode Island	1,014 ^b	363 ^b	88 ^b	10
South Carolina	1,746 ^b	1,989 ^b	926 ^b	25
South Dakota	826		← 800 ^c →	12
Tennessee	3,221	a	a	36
Texas	18,500		← 37,000 ^c →	58
Utah	2,031	a	68	6
Vermont	259 ^b	168 ^b	11 ^b	13
Virginia	4,000	a	a	33
Washington	3,421		← 7,000 ^c →	15
West Virginia	3,151	3,291 ^b	60 ^b	77
Wisconsin	6,000		← 1,000 ^c →	32
Wyoming	375 ^b		← 1,000 ^c →	1
TOTALS:	208,640		← 182,660 →	1315

Table 2--Continued

^aThese data are unobtainable.

^bData supplied by teacher-education institutions.

^cIn several instances undergraduate aide and graduate intern data could not be separated and are shown as aggregate sums.

^dLatest data available was 1974.

Source: Data obtained through personal correspondence. Every state department and/or teacher education institution for each state was contacted. Supplying the data were 31 state departments and 369 teacher education institutions.

In view of these conditions, student teachers, aides, and interns find themselves "in a most precarious climate" particularly in the absence of specific legal recognition as to their legal rights, duties, and responsibilities.⁴

PURPOSE OF THE STUDY

The major thrust of this study was to examine the selected legal impact upon the placing of student teachers, undergraduate aides, and graduate interns in the public schools throughout the United States. The study was designed to provide a source of information which teacher educators, public school administrators, cooperating classroom teachers, and students of education can utilize in making sound decisions.

The legal issues examined involved three broad conceptual areas:

1. The legal authority for engaging in educational clinical experiences in the public schools.
2. Potential employer-employee relationships involving educational clinical experiences in the public schools.
3. Internal school relationships regarding educational clinical experiences in the public schools.

In addition to these three conceptual areas, a final question examined

⁴Based upon M. Chester Nolte and John P. Linn, School Law for Teachers, (Danville, Ill.: Interstate Printers and Publishers, 1966), p. 309 and Diane C. Sorensen, "A Rationale and Proposal for: The Colorado Teacher Education Act of 1972" (unpublished paper, November 22, 1971), p. 9.

unique and distinct differences found to exist between the regular certified teacher on the one hand, and the student teacher, the undergraduate aide, and the graduate intern not addressed in the previous analysis.

The study sought to provide answers to the following specific questions regarding legal authority:

1. a) Do local school boards have the authority to permit student teaching in the public schools?⁵
- b) Do local school boards have the authority to permit undergraduate students to serve as aides in the public schools?
- c) Do local school boards have the authority to permit graduate students to serve as interns in the public schools?
2. a) Is it necessary that student teachers hold a preliminary certificate issued by the state certifying agency?⁶
- b) Is it necessary that undergraduate aides hold a preliminary certificate issued by the state certifying agency?
- c) Is it necessary that graduate interns hold a preliminary certificate issued by the state certifying agency?

⁵Fred Swalls, Legal Aspects of Student Teaching (Danville, Ill.: Interstate Printers and Publishing, 1966), p. 2, and Franklin B. Jones, "Legal Aspects of Student Teaching in the United States" (Doctoral dissertation, University of Mississippi, 1967), p. 3.

⁶Jones.

Answers to the following specific questions were sought concerning potential employer-employee relationships:

3. a) Are student teachers considered to be employees of the local school board while serving in their clinical experience?
- b) Are undergraduate aides considered to be employees of the local school board while serving in their clinical experience?
- c) Are graduate interns considered to be employees of the local school board while serving in their clinical experience?
4. a) May student teachers receive financial compensation from the school district during their clinical experience?
- b) May undergraduate aides receive financial compensation from the school district during their clinical experience?
- c) May graduate interns receive financial compensation from the school district during their clinical experience?
5. a) Are student teachers eligible for workmen's compensation while engaged in their clinical experience?
- b) Are undergraduate aides eligible for workmen's compensation while engaged in their clinical experience?
- c) Are graduate interns eligible for workmen's compensation while engaged in their clinical experience?

6. a) What due process guidelines are afforded student teachers if they are dismissed from their clinical experience?
 - b) What due process guidelines are afforded undergraduate aides if they are dismissed from their clinical experience?
 - c) What due process guidelines are afforded graduate interns if they are dismissed from their clinical experience?
7. a) What guidelines exist for student teachers if a teacher strike or other work stoppage occurs, while engaged in their clinical experience?
 - b) What guidelines exist for undergraduate aides if a teacher strike or other work stoppage occurs, while engaged in their clinical experience?
 - c) What guidelines exist for graduate interns if a teacher strike or other work stoppage occurs, while engaged in their clinical experience?

Answers to the following specific questions were sought concerning internal school relationships:

8. a) Does the student teacher have the authority to teach without constant, immediate and direct supervision?⁷

⁷Sorensen, p. 11.

- b) Does the undergraduate aide have the authority to aid the classroom teacher without constant, immediate and direct supervision?
 - c) Does the graduate intern have the authority to assume duties without constant, immediate and direct supervision?
9. a) Do student teachers have authority to discipline pupils?
- b) Do undergraduate aides have authority to discipline pupils?
- c) Do graduate interns have authority to discipline pupils?
10. a) Are student teachers liable for injuries sustained by pupils under their supervision?⁸
- b) Are undergraduate aides liable for injuries sustained by pupils under their supervision?
- c) Are graduate interns liable for injuries sustained by pupils under their supervision?
11. a) May student teachers serve as substitute teachers in the absence of the assigned cooperating teacher? May the student teacher receive payment for his/her service?
- b) May undergraduate aides serve as substitute teachers during their clinical experience? May the aide

⁸Swalls, p. 2 and Jones, p. 3.

receive payment for his/her service?

- c) May graduate interns serve as substitute teachers during their clinical experience? May the intern receive payment for his/her service?

- 12. a) May student teachers have access to pupil records?⁹
- b) May undergraduate aides have access to pupil records?
- c) May graduate interns have access to pupil records?

In addition to these questions an answer was sought to the following question:

- 13. a) During the clinical experience are there any unique and distinct differences found to exist between student teachers and regular certified teachers not addressed in the previous analysis?
- b) During the clinical experience are there any unique and distinct differences found to exist between undergraduate aides and regular certified teachers not addressed in the previous analysis?
- c) During the clinical experience are there any unique and distinct differences found to exist between graduate interns and regular certified teachers not addressed in the previous analysis?

⁹Sorensen, p. 11.

DEFINITIONS OF TERMS AS USED IN THIS STUDY

Terms used in the study are included in the glossary. Black's Law Dictionary was consulted for definitions of the legal terms. Various educational publications were consulted in defining the educational terms.

LIMITATIONS

The study was confined to student teacher, undergraduate aide, and graduate intern assignments by public teacher-education institutions in off-campus elementary and secondary public schools. Only those statutes, court decisions, opinions of attorneys general, or superintendent interpretations, state department of education rules and regulations, and the written policies of the largest public teacher training institution of each state which affect these individuals while they are engaged in their clinical experiences were included in the study. Consequently, conclusions drawn were based upon these limitations.

THE PROCEDURE

In an attempt to provide answers to the previously stated questions, the following sources were analyzed:

- (1) The statutes of each state.
- (2) Case law.
- (3) The opinions of state attorneys general of each state.

(4) The state superintendent interpretations of each state where applicable.

(5) The rules and regulations of each state department of education.

(6) The rules and regulations of the largest public teacher training institution within each state.

The current statutes of each state were used to identify statutes relative to the study and are identified in the bibliography.

In an effort to locate cases of the appropriate jurisdiction, the following sources were utilized:

(1) The American Digest System. This source provides a series of cases from 1958 to the present. It is divided into eight units each having cases arranged by subject matter. Each topic has several subjects logically outlined each of which is assigned a number which is called the key number. The system consists of short digests of each case arranged in order of the outline of topics.

(2) The National Reporter System. This source briefs the significant points of all cases from all courts of record. The Supreme Court Reporter, the Federal Reporter, the Federal Supplement and the Federal Rules Decisions are included in this system.

(3) American Jurisprudence. This source is encyclopedic in style and contains leading court decisions by topic.

- (4) Corpus Juris Secundum. This source is a digest of case law principles. This source is a parallel of American Jurisprudence.
- (5) American Law Reports. This source is a digest based on 500 carefully chosen state and lower federal court decisions. Annotations provide the substance of what has been decided in other cases on the same point.
- (6) Shepard's Citations. This source provides, among other things, information concerning whether or not cases have been disapproved, modified, or reversed by subsequent decisions. Also noted is whenever a case is cited in another decision.

Two guides were used in this undertaking:

- (1) Legal Research in a Nutshell, by M. L. Cohen.
- (2) Schoolman in the Law Library, by A. A. Rezny.

It was necessary to draft unique letters to each attorney general due to the differences of each state. However, the central question regarding whether there was an existing attorney general's opinion in effect was asked. Examples of the individually designed letters are contained in Appendix C. If an opinion had been made, a copy was secured. If an opinion had not been made on the subject, a written statement to that effect was received. In those states which utilize state superintendent interpretations¹⁰ regarding school law

¹⁰For a detailed explanation of the states which follow this procedure see the State Superintendent's interpretation in Appendix A.

matters, the same procedure was followed with the office of the state superintendent.

The rules and regulations of each state department of education concerning the subject were gathered by communicating with the officer who, in most cases, was the Director of Teacher Education.

In several cases a direct reply was received from the chief state school official or the Department of Legal Counsel. Each state department of education was asked to supply the name of the public institution which graduated the largest number of teacher education graduates from state-approved programs for the last academic year.

In those few instances in which the State Department of Education could not respond, the author wrote each institution in those states to determine the largest institution for the purposes of the study. These institutions were contacted in order to examine their written rules and regulations regarding the questions posed.

Following the data gathering stage, all information secured was analyzed to see if it addressed the questions previously presented. The data that specifically answered the questions posed were catalogued for analysis. Follow-up correspondence was conducted for those respondents which were incomplete or contradictory with other sources. When the collected data was complete, it was put into chart form along thematic lines in predetermined categories¹¹ and is discussed in Chapter 3.

¹¹ Appendix A (Types and Sources of Law, Federal and State Courts). Appendix A has been designed to give the reader a brief overview of this rather broad area.

Chapter 2

REVIEW OF THE RELATED LITERATURE

The first national study into the legalities of student teaching was conducted by Cecil Allen in the late 1930's.¹² At the time of his study, he found very few states which specifically addressed the usage of student teachers by specific statutes.¹³ As a result of his study, Allen formed the opinion that student teaching under proper supervision was not in conflict with the law.¹⁴

Mead, in 1930, devoted two chapters to the legal aspects of student teaching.¹⁵ He was concerned with statutes, case law, and administrative regulations related to teacher education institutions which placed student teachers in the public schools.¹⁶ Pennsylvania, Tennessee, and Vermont were identified as having "legalized . . . cooperative relations between the teacher-preparing institution and public school systems."¹⁷

In 1945, Brink conducted a study of colleges and universities that placed student teachers in off campus public schools.

¹²Cecil H. Allen, Legal Principles Governing Practice Teaching in State Teachers Colleges, Normal Schools, and Public Schools, (Nashville: George Peabody College for Teachers, Contribution to Education, No. 184, 1937), p. 1.

¹³Allen, p. 31.

¹⁴Allen, pp. 137-139.

¹⁵Arthur Raymond Mead, Supervised Student-Teaching, (Richmond: Johnson Publishing Co., 1930), pp. 681-783.

¹⁶Mead, p. 682.

¹⁷Mead, p. 683.

Brink concluded that a few student teacher placements involved formal contract. The vast majority operated by "gentlemen's agreement" between the institution and the school system.¹⁸

Edwards, in his 1955 work, concluded that:

Where a board of education is vested by statute with broad powers and discretion in the conduct and management of the public schools, it may as an exercise of its authority to determine the course of study, maintain a model school for the use of teacher-college students. Students doing practice teaching in the public schools are not required to have teacher's certificates. Employment of practice teachers is merely a variation in the mode of instruction, a matter which falls wholly within the discretion of the school authorities. Control over the practice-school facilities for teacher-college students must be exercised exclusively by the school board. The law vests school boards with authority and discretion in the management and control of the public schools, and they may not divest themselves of this authority or delegate it to others . . .¹⁹

Mead noted that as certification of teachers moved from being a local issue to a state issue, various state departments of education gained the power to prescribe minimum certification requirements. Student teaching became one of the prerequisites for certification.

¹⁸ William G. Brink, "The Administration of Student Teaching in Universities which use Public Schools," Educational Administration and Supervision, October 1945, p. 396.

¹⁹ Newton Edwards, The Courts and the Public Schools, (Chicago: University of Chicago Press, 1955), pp. 157-158. Edwards based his writing upon, Speeden v. Board of Education, 81 S.E. 724, (1914); Lindblad v. Board of Education, 77 N.E. 450, (1906); Clay v. Independent School District of Cedar Falls, 174 N.W. 47, (1919).

Specific or implied legislation enabled the state departments of education to require this activity.²⁰

In answer to the question of the legal status of student teachers, Wiggins wrote:

. . . legally the responsibility of the school for custody of pupils must remain with the regular classroom teacher, since you [the student teacher] are not under contract with a school board.²¹

Barkley studied three aspects of student teaching: (1) student teaching provisions as expressed in statutes; (2) state regulations concerning teacher certification; and (3) judicial and administrative interpretations. Barkley's study found that thirty-one states had specific legislation pertaining to student teaching; six states contained implied authority for student teaching; and thirteen had neither expressed nor implied provisions for student teaching experiences.²²

In a 1960 article, Tieszen and Foreman raised several questions relating to the issue of the placing of student teachers in the public school classrooms of the United States. Their concern focused on the question of the student teachers: (1) power to regulate pupil conduct; (2) liability in a tort action; (3) his/her immunity in

²⁰ Arthur Raymond Mead, "Legal Status of Laboratory Schools and Teacher Education Laboratory Practices," The Journal of Teacher Education, December 1957, p. 359.

²¹ Sam P. Wiggins, The Student Teacher in Action (Boston: Allyn and Bacon, Inc., 1957), p. 51.

²² David Stanford Barkley, "The Legal Status of Student Teaching," (Doctoral dissertation, Duke University, 1959), p. 10.

reporting information; (4) exceeding delegated authority; (5) being used as a substitute teacher; (6) entitlement to workmen's compensation; (7) right to certification after completing the clinical experience; and (8) the responsibilities which may be delegated to the student teacher. Tieszen and Foreman identified these areas of concern but they offered no answers.²³

In 1961, Tieszen and Foreman discussed the issue of whether or not a student teacher could teach even temporarily without full certification. According to the authors' viewpoint, student teachers are in a legal dilemma; that is, no one is allowed to teach without a valid certificate, which student teachers do not possess, and, at the same time, student teaching is a prerequisite for a teaching certificate.²⁴

Breyer's study was primarily concerned with implied and expressed authority relating to whether or not school boards may accept student teachers from colleges and universities. It was Breyer's conclusion that school boards can only utilize student teachers if they are expressed or implied by statutory law.²⁵

In 1964, Nolte and Linn included a chapter entitled "The Student Teacher in Legal Theory" in their book School Law for Teachers.

²³ D. W. Tieszen and Charles Foreman, "Legal Responsibilities of the Student Teacher," The Journal of Teacher Education, November 1960, p. 442.

²⁴ D. W. Tieszen and Charles Foreman, "Student Teaching--Some Legal Considerations," The Journal of Teacher Education, June 1961, p. 216.

²⁵ Reynolds C. Sietz, Law and the School Principal (Cincinnati: The W. H. Anderson Co., 1961), pp. 171-174.

They explored, to a limited extent, the authority to permit practice teaching, statutory provisions for student teaching, student teacher certification, liability of student teachers in tort actions, and the legal rights of student teachers.²⁶

Andrews referred to the legal basis of student teaching, and advocated a comprehensive state wide approach to plan, operate, and finance programs of student teaching.²⁷ In a related study in 1964, Johnston concluded that legislation should be enacted with respect to the following areas:

1. Cooperative agreements and financial arrangements between teacher preparing institutions and public schools for the establishment and maintenance of off-campus laboratory schools.
2. Liability insurance for all those taking part in the student teaching program (teacher preparing institution, public school, and student teacher).
3. Workmen's compensation insurance laws revised to include the student teacher.²⁸

Swalls conducted a study in 1966 entitled Legal Aspects of Student Teaching. Swalls examined statutes, opinions of attorneys general, and cases in ten states related to student teaching. In addition, he examined cases from two other states. Swalls stated:

²⁶ Nolte and Linn, pp. 307-325.

²⁷ L. O. Andrews, "State and Federal Aid for Student Teaching Now?," The Journal of Teacher Education, June 1964, pp. 165-174.

²⁸ Stanley L. Johnston, "The Legal Aspects of Student Teaching," (Doctoral dissertation, University of North Dakota, 1964), pp. 121-122.

In the matter of liability of the student teacher for pupil injury, the law of the ten states studied varied. Three of the states with save-harmless laws protected student-teachers. It appeared that in the other seven states the student teacher could be held personally liable for injury.²⁹

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

1. Statutes or regulations need to be established which will make special funds available for student teaching.
2. Supervising teachers should be paid for the services they perform and this payment should be made directly to the supervising teacher.
3. Student teachers should not be paid for the services they perform.
4. The supervising teacher need not always be physically present in the classroom while the student teacher is teaching.
5. Student teachers should occasionally assume full responsibility for supervising activities outside the classroom; e.g., hall duty, lunchroom supervision, playground supervision etc.
6. The student teacher should have the right to exercise disciplinary control over pupils.
7. Principals, consultants and other public school personnel should assume certain supervisory responsibilities in a student teaching program.
8. Statutes or regulations need to be established which will protect the student teacher from liability suits involving pupil injury.

²⁹Swalls, p. 32.

9. Student teachers should be protected by the public school's "Workmen's Compensation" plan.
10. Special or preliminary certificates are not necessary for student teachers.
11. Student teaching should be required before an individual may receive a "regular" teaching certificate.
12. There should be special qualifications for supervising teachers.
13. Teacher preparing institutions should be required to enter into a written agreement with cooperating schools concerning student teaching programs.
14. Cooperating schools should not have the right to deny a college supervisor the opportunity to observe and supervise student teachers who have been assigned to the district involved.
15. The cooperating school district should have the right to exercise selectivity in accepting students recommended for student teaching by the teacher preparing institution.³⁰

Another dissertation in 1965 entitled Legal Aspects of Student Teaching in the United States dealt with certain legal aspects in the placement of student teachers in the public schools. Jones recommended the enactment of legislation in those states which lack statutes to provide specific statements with respect to the following:

1. Use of the public schools for student teaching.
2. Use of public school pupils as subjects for student teaching whenever such pupils are compelled to attend school by compulsory attendance laws.
3. Control of pupil conduct.

³⁰ Donald E. Farmer, "The Legal Status of Student Teaching in Forty Selected States," (Doctoral dissertation, University of Kansas, 1965), pp. 79-80.

4. Liability of injuries to pupils.
5. Liability of injuries to student teachers.
6. Selection, certification, and definition of the role of the cooperating teacher.
7. Certification of student teachers.
8. Compensation of cooperating teachers.
9. Contractual agreement for student teaching.
10. Special requirements and qualifications for student teachers.
11. Use of student teachers as substitutes for the regular teachers.
12. Assignment of student teachers to out-of-state local school districts.³¹

Jones recommended further investigation in this field due to "the ever-changing status of student teaching. . . ." ³²

In 1969, Karakas investigated the legal status of student teachers in North Dakota. The results and conclusions of this study were as follows:

1. The legal status of student teachers in North Dakota has not been defined by statute.
2. Student teachers are not legally permitted to teach in the public schools.
3. Student teachers are not covered by liability insurance which public school districts may purchase, and they would be liable for acts of negligence in the same manner as any other person.
4. Student teachers do not have legal authority to administer corporal punishment.

³¹ Jones, pp. 132-133.

³² Jones, p. 133.

5. Student teachers have the responsibility of using information about pupils in an ethical and confidential manner.
6. Student teachers may not be used legally as substitute teachers.
7. Student teachers are not covered by the workmen's compensation laws of North Dakota.
8. There are responsibilities a certified teacher cannot legally delegate to a student teacher.
9. North Dakota does not have a "save-harmless" statute.
10. It is recommended that the state legislature enact legislation defining the legal status of student teachers in North Dakota. This legislation should:
 - a) Permit student teachers to teach in any of the public schools of the state.
 - b) State that student teachers are covered by liability insurance carried by the school district in which they are teaching.
 - c) State that student teachers are covered by workmen's compensation laws.
 - d) Permit student teachers to administer corporal punishment.
 - e) Permit the use of student teachers as unpaid substitute teachers.
 - f) Provide for preliminary certification of student teachers.
 - g) Provide a "save-harmless" clause that would protect both teachers and student teachers.
11. In the absence of legislation, the institutions of higher learning should agree to:
 - a) Provide legal counsel for the student teacher if the need should arise.
 - b) Provide medical care for the student teacher if the need should arise.³³

Although Farmer, Jones, and Karakas made specific recommendations, Anderson, in an article appearing in Critical Issues in School Law, stated:

³³ Louis John Karakas, "The Legal Status of Student Teachers in North Dakota," (Doctoral dissertation, University of North Dakota, 1969), Dissertation Abstract International, Vol. 30/09-A (Ann Arbor: University Microfilms, Inc., 1969), p. 3833.

The problem is to determine how to provide the field experience necessary for potential teachers and at the same time provide the legal protection they deserve while working in the particular situation.³⁴

Longstreth and Taylor spoke of this problem in a 1971 article appearing in The Journal of Teacher Education:

A valid student-teaching experience is, in fact, a teaching experience, and this should be so reflected in the law. Although many states have legalized the sale of alcoholic beverages and some have even legalized gambling, few have seen fit to legalize student teaching. This is a tragic situation: the student teacher, the supervising teacher, the school district, and the teacher education institution are entitled to status and protection under the law.³⁵

Much has been written on how Colorado solved many legal problems with their Cooperative Teacher Education Act of 1973.³⁶

Howerton's study of selected states in 1971 documented the need for legislation in this area.³⁷ Sorensen, while assisting the Committee on Education of the Colorado General Assembly, wrote of this need also.³⁸ Ruff's study concentrated on the implementation of the legislation in Colorado. In his study Ruff wrote:

³⁴ Bobby D. Anderson, "The Legal Status of Student Teachers as a Special Problem in School Administration," Critical Issues in School Law, (Topeka: The National Organization on Legal Problems of Education, 1970), p. 189.

³⁵ Larry E. Longstreth and Bob L. Taylor, "Student Teaching--A Legal Vacuum," The Journal of Teacher Education, Spring 1971, pp. 48-50.

³⁶ Colorado Revised Statutes, § 22-62-101 through 105, 1973.

³⁷ Thomas Merle Howerton, "Selected Statutes and Policies of Diverse States Pertaining to Student Teachers, Interns, and Aides with Analysis of Statutes and Recommended Model Legislation," (Doctoral Dissertation, University of Northern Colorado, 1971).

³⁸ Sorensen, p. 16.

Important as it is, the laws in most states utterly failed to clarify the status of the student teacher. Teacher education institutions have continued to assign observers, assistants, student teachers, and interns to schools for experiences with children in a learning situation. School officials have accepted such helpers and learners in the schools generally as a professional responsibility, but not infrequently as a strategy to obtain considerable help at little or no cost to the school. The student teacher has generally been regarded as a "learner," but his status in a school district was generally not defined in law.³⁹

Horton's writings were mainly concerned with policy formations regarding the role of the student teacher and the college/university during a teacher strike. Horton offered some of the following guidelines during a teacher strike for student teachers and college/university officials:

Decisions should be made before the heat and passion of a strike. Guidelines formulated and accepted before the fact are more likely to be successful for all.

Safeguards to the constitutional rights of the student teacher should be built into any policy. The student teacher's rights must be given priority at each level of decision making. This is wise from a legal as well as from a humane viewpoint.

While some involvement in a strike may be worthwhile for prospective teachers, reasonable limits must be established before the beginning of the student teaching experience.

In no case should a student teacher be asked to serve as a substitute teacher in order to break a strike. Conversely, he should not be asked to serve on picket lines or to support the strike in any way if this is contrary to his beliefs.

The student teacher must not have his future jeopardized in terms of evaluations for engagement or refusal to engage in teacher strike activity.

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

The university in its teacher education program needs to offer help to the prospective teacher in coming to intelligent decisions in the crucial area of teacher strikes and sanctions. The prospective teacher should be made aware of the strengths and weaknesses in all positions. His rights and hazards in assuming particular positions should be examined objectively. Decisions should not be made for him but all possible effort should be exerted to assure his making decisions from a base of understanding rather than from a base of ignorance.⁴⁰

Horton, in 1974, followed up his concerns toward the role of student teachers in strikes by surveying one hundred teacher education institutions. According to Horton, three-fourths of the institutions had policies but the policies were "often vague and unworkable."⁴¹

The Association of Teacher Educators issued an unpublished manuscript to its members in 1974 entitled "Providing Legal Status for Student Teachers." This compilation was made to encourage the development of appropriate state legislation in ". . . delineating the legal status of student teachers. . ."⁴²

In 1974, in his chapter "Student Teaching and the Law," Hoffman expressed a concern for the need for student teachers to know how the law related to them:

Student teaching is the most exciting part of the teacher education program. Like that certain refreshing beverage, this is the "real thing." But do student teachers place

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

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

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

themselves in legal jeopardy when they begin their practice teaching? What legal responsibilities may be placed upon them? Can they be held liable for their activities in the school district when they are neither certified nor under contract? Few of them seem to know.⁴³

Anderson, in his 1976 book, The Law and the Teacher in Mississippi, discussed recent legislation in Kansas, North Carolina, North Dakota, and Tennessee regarding student teachers. Student teaching in Mississippi, Anderson explained, is based upon recently enacted legislation.⁴⁴

Hazard's pamphlet, Student Teaching and the Law, utilized Illinois and Indiana state laws specifically to illustrate the limits of student teacher liability in those states. Speaking in general terms, Hazard wrote:

The law, once a distant cousin to education and schooling, has moved dramatically into a close partnership. It is becoming increasingly clear that the really important educational decisions are made in the Congress and in the courts, and that the law carries substantial implications for the preparation and practice of teaching.⁴⁵

Swalls' booklet of October 1976 studied the statutes gathered through questionnaires to certification officers of various states.

⁴³ Earl Hoffman, Teacher Education: Trends, Issues, Innovations, eds. Lowell Horton and Phyllis Horton (Danville, Illinois: Interstate Printers & Publishers, 1974).

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

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

Swalls spoke to statutes and cases pertaining to student teachers in thirty-six states.⁴⁶

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

It is apparent that previously conducted studies do not fully furnish a complete and up-to-date analysis in regard to the legal status of student teachers, undergraduate aides and graduate interns. Prior studies examined the subject in a limited number of states or were conducted several years ago. Consequently, although much has been written regarding student teachers, the questions posed in Chapter 1 remained unanswered after a review of the literature. In addition, the questions concerning undergraduate aides and graduate interns are also unanswered as virtually nothing is revealed by an examination of the related literature.

⁴⁶ Fred Swalls, The Law on Student Teaching in the United States (Danville, Illinois: Interstate Printers & Publishers, 1976).

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

Chapter 3

SPECIFIC FINDINGS

As previously stated, all state statutes, court decisions, opinions of attorneys general or superintendent interpretations, state department of education rules and regulations, and the written policies of the largest public teacher training institution of each state that affect student teachers, undergraduate aides and graduate interns were examined. Specific questions were posed which involved three broad conceptual areas:

1. The legal authority for engaging in educational clinical experiences in the public schools.
2. Potential employer-employee relationships involving educational clinical experiences in the public schools.
3. Internal school relationships regarding educational clinical experiences in the public schools.

This chapter's organization is based upon the questions posed and the conceptual areas addressed in Chapter 1. The chapter is presented according to the hierarchy of influence: legislative law, judicial law, administrative law, attorney general's opinions, and state superintendent interpretations. At the end of each sub section, a chart is presented showing an overview of the question posed.

1. Legal authority for engaging in educational clinical experiences in the public schools.

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

The legal authority relating to whether or not local school boards may accept student teachers from colleges or universities is of great importance. Many states clearly give a local school board authority to enter into such agreements. For example, both Wyoming and Colorado statutes, in the exact same language, authorize the board of trustees and the board of education respectively:

. . . to enter into written, contractual agreements or arrangements with any college or university for the purpose of providing field experiences in teacher education. Field experiences shall include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution regardless of the title of his position.^{48,49}

Indiana provides legal authority for such agreements as long as the college/university is accredited by the "training and licensing commission of Indiana."⁵⁰ South Dakota law authorizes agreements between local boards and colleges/universities under the control of the board of regents.⁵¹ Oregon is similar to Indiana and South Dakota as it authorizes agreements if the college/university is approved by

⁴⁸ Wyoming Statutes, § 21-510.

⁴⁹ Colorado Revised Statutes, § 22-62-103.

⁵⁰ Indiana Code, § 20-5-10-1.

⁵¹ South Dakota Compiled Laws, § 13-53-8.

the Teacher Standards and Practices Commission.⁵² Iowa authorizes written contracts by local school boards if the college/university is approved by the Board of Educational Examiners of Iowa.⁵³ North Carolina,⁵⁴ California,⁵⁵ and Nebraska⁵⁶ laws are very similar as the college/university must be approved by the state board of education. Illinois authorizes agreements between the local school boards and "teacher training institutions."⁵⁷ Kentucky statutes provide that the State Board of Education shall regulate agreements between local school boards and colleges/universities.⁵⁸ Maryland, in 1974, passed a similar law to that of Kentucky authorizing any local board and the Board of Commissioners for Baltimore to enter into cooperative agreements "for the purpose of student teaching or supervised field experiences with any teacher training institution."⁵⁹

North Dakota authorizes local school boards to enter into cooperative agreements and financial arrangements regarding student teaching and supervised field experiences in the public schools.⁶⁰

⁵² Oregon Revised Statutes, § 342.980.

⁵³ Code of Iowa, § 260.27.

⁵⁴ General Statutes of North Carolina, § 115-160.5.

⁵⁵ West's Annotated California Code, § 13160.1.

⁵⁶ Revised Statutes of Nebraska, § 79-1297.

⁵⁷ Illinois Revised Statutes, § 10-22.37.

⁵⁸ Kentucky Revised Statutes, § 161.042.

⁵⁹ Maryland School Law, § 116B.

⁶⁰ North Dakota Century Code, § 15-47-40.

The State of Washington authorizes such agreements in an interesting manner by giving authority to the Board of Regents of the state to enter into agreement with the board of directors of any school district in Washington state.⁶¹ No such law gives authority to the school board, however. In the District of Columbia the public schools are authorized "to accept free and voluntary services of educators and teachers."⁶² "Given the fact that student teachers are engaged in the delivery of instructional/educational services, there has never been any question as to [the district's] authority to utilize them."⁶³ Nevada authorizes local school boards to enter into agreements with the University of Nevada School System for "training purposes as student teachers, counselors or library trainees, or for teaching laboratory experiences."⁶⁴ This provision covers all student teachers since only two institutions engage in teacher training in the state of Nevada.⁶⁵

Minnesota authorizes agreements between local school boards and approved colleges/universities by statute for student teachers,

⁶¹ Revised Code of Washington, § 28B. 10.600.

⁶² District of Columbia Code, § 31-802.

⁶³ Correspondence between George H. Margolies, Legal Counsel to the Superintendent and the writer, October 15, 1976.

⁶⁴ Nevada Revised Statutes, § 391.095.

⁶⁵ The University of Nevada at Reno, and The University of Nevada at Las Vegas.

and the student teacher must "have completed not less than two years of an approved teacher education program."⁶⁶

In Arkansas the arrangement of accepting student teachers is permissible if the primary or secondary school is accredited by the State Department of Education.⁶⁷

New York law permits student teachers to operate in public schools by the following passage:

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be diminished by reason of the presence of cadet teachers.⁶⁸

This passage seems to indicate that school boards have the authority to permit student teaching in New York.

Kansas and Utah laws provide for the issuance of student teacher certificates by the appropriate state board of education.

The Kansas Statute is as follows:

The board of education of any school district may enter into contracts with colleges and universities for the use of student teachers in the public schools. The state board of education, by rules and regulations, shall provide for the issuance of student teaching certificates and may authorize persons holding such student teaching certificates to assume responsibilities of teachers in schools within limitations prescribed by the state board. Student teaching certificates shall be issued without the charge of any fee or cost by the state board of education.⁶⁹

⁶⁶ Minnesota Statutes, § 123.35 subd. 13.

⁶⁷ Arkansas Statutes, § 80-1233.

⁶⁸ Education Law, § 3001.

⁶⁹ Kansas Statutes, § 72-1392.

The Utah statute says:

. . . a certificate for student teaching shall be issued only upon recommendation of a teacher training institution in the state of Utah approved and accredited by the state board of education. The certificate shall authorize the holder to teach in a specified school or schools under the general and specific direction of a qualified and regularly certificated person. The certificate shall be valid only for the student teaching period. No person shall perform student teaching without first being a holder of the certificate herein named.⁷⁰

Many states do not have express legislation which clearly authorizes local public school boards to permit student teaching. However, student teaching is often spoken to in other ways by statutes regarding various legal points. These statutes become the basis by which local school boards receive the implied authority to permit student teaching. From reading these statutes one may deduce that student teaching is an authorized activity for the local board of education would have the authority to permit such an activity.

Three states use very vague clauses to permit student teaching. Alabama permits student teaching under Title 52 of the Code of Alabama 1940, as amended, which authorizes ". . . local boards of education to establish rules, regulations and policies for the operation of the schools under their jurisdiction."⁷¹ West Virginia takes a slightly different approach in that a section of the state code reveals, "The education of teachers in the State shall be under the

⁷⁰ Utah Code, Annotated, § 53-2-15.

⁷¹ Correspondence between Erskine S. Murray, Assistant State Superintendent of Education and the writer, June 18, 1976.

general direction and control of the state board of education."⁷²

The state board permits student teaching in the local school districts.

The Virginia Constitution states "The supervision of schools in each school division shall be vested in a school board. . ."⁷³ According to the opinion of one official in the State Department of Education, "it appears that local boards would have sufficient authority in the supervision of the schools to cooperate with institutions in the assignment of student teachers to particular school divisions and schools."⁷⁴

A few states define the term, student teachers, and in so doing, permit local school boards to permit such activity. The Florida statute is as follows:

INSTRUCTIONAL PERSONNEL--"Instructional personnel" shall mean any member of the instructional staff as defined by regulations of the state board and shall be used synonymously with the word "teacher" and shall include teachers, librarians, and others engaged in an instructional capacity in the schools. A student who is enrolled in an institution of higher education approved by the state board for teacher training and who is jointly assigned by such institution of higher education and a school board to perform practice teaching under the direction of a regularly employed and certificated teacher shall be accorded the same protection of the laws as that accorded the certificated teacher while serving such supervised internship, except for the right to bargain collectively with employees of the school board.⁷⁵

⁷² Michie's West Virginia Code, § 18-2-6.

⁷³ Constitution of Virginia, Article VIII, Section 7.

⁷⁴ Correspondence between Ryland Dishner, Assistant Superintendent for Professional and Educational Support Services and the writer, April 19, 1976.

⁷⁵ Florida Statutes, § 228.041 (9).

Mississippi and Oklahoma define by statute the term "student teacher." The two statutes are very similar and clearly define student teaching as an authorized activity. The Mississippi statute provides:

As used in this chapter, "student teacher" or "intern" shall mean a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator.⁷⁶

The Oklahoma statute provides:

Student Teacher: A student teacher is any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher.⁷⁷

Connecticut,⁷⁸ Idaho,⁷⁹ and New Jersey⁸⁰ recognize the presence of student teachers in statutes concerning liability protection. It would seem to follow that local boards of education could permit student teachers since the state recognizes their presence with insurance protection.

In several states, statutes recognize the presence of student

⁷⁶ Mississippi Code, § 37-132-1.

⁷⁷ Oklahoma Statutes, § 1-16-5.

⁷⁸ General Statutes of Connecticut, § 10-235, *inter alia*.

⁷⁹ Idaho Code, § 33-1201.

⁸⁰ New Jersey Revised Statutes, § 18A: 16-6.

teachers in regard to certification exemption. For example, in Arizona:

Students in the state universities and colleges may, under rules prescribed by the board of regents, teach in the training schools and other public schools without being certificated teachers.⁸¹

Thus, a local school board could permit student teaching to take place within its school district.

Tennessee⁸² and Montana⁸³ exempt student teachers from certification requirements to allow them to engage in a clinical experience. In so doing, the local school board gains authorization in a passage which permits student teachers to be assigned jointly by an institution of higher learning and a local board of education. New Mexico statutes simply say that student teachers are not covered by certification requirements while engaged in their clinical experience and gives authority for such programs to the state board of education.⁸⁴ Missouri in requiring everyone to have a certificate before teaching allows the state board of education to formulate rules and regulations regarding student teachers.⁸⁵ In New Mexico and Missouri the state board of education permits local boards to accept student teachers within the local school district.

⁸¹ Arizona Revised Statutes, § 15-901.C.

⁸² Tennessee Code, § 49-1301.

⁸³ Montana Revised Code, § 75-6001.

⁸⁴ New Mexico Statutes, § 77-8-1.2D.

⁸⁵ Missouri Revised Statutes, § 168.021.

For public school officials in many states the absence of statutes, either express or implied, makes a state department of education rule or regulation have virtually the same effect that a law would have as the public school official is bound by the ruling.

Several states use this approach to permit local school boards to receive student teachers.

In Alaska, a local board of education is authorized to permit student teaching by a letter of authorization by the chief school administrator.⁸⁶ School boards are authorized to permit student teaching in Wisconsin⁸⁷ and Rhode Island⁸⁸ under administrative regulations governing student teaching certificates within the respective states.

Hawaii and Georgia have administrative regulations that permit local school boards to receive student teachers in their respective districts. Hawaii's regulation states that the teacher training institution must certify the fitness of the trainee before this activity can be permitted.⁸⁹ Georgia permits school boards to accept student teachers under its recently enacted Competency-Based Teacher Education Program.⁹⁰

⁸⁶Alaska Department of Education Rules and Regulations, 12.070(3).

⁸⁷Wisconsin Administrative Code, Section P1 3.01[2][g].

⁸⁸Correspondence between Patrick F. McCarthy, Coordinator of Regulatory Functions and the writer, April 27, 1976.

⁸⁹Department of Education, Policy #5104.

⁹⁰"Guidelines for Competency-Based Education" approved by the Georgia State Board of Education, September 11, 1975.

Six states use an approved program approach governed by the appropriate state department of education rule or regulation which permits student teachers in the public classrooms of their state. In each of these states the local school board has authority through the implied wording of a rule or regulation. Maine,⁹¹ Pennsylvania,⁹² Ohio,⁹³ Michigan,⁹⁴ New Hampshire,⁹⁵ and Vermont⁹⁶ use the approved program approach. If a clinical experience is part of a program approved by the state department of education, it would seem logical that local boards of education are authorized to engage in these activities. However, there are no specific guidelines in any of these states as of this date.

There are no statutes allowing local school boards to permit student teaching in Delaware. Furthermore, there are no state department rules or regulations concerning student teaching. Local school

⁹¹ Correspondence between J. Wilfrid Morin, Director of Teacher Certification/Placement and the writer, May 26, 1976.

⁹² State Board Regulations, Chapter 49, Section 49.13.

⁹³ "Guidelines for Colleges or Universities Preparing Teachers." (Columbus: Department of Education), p. iii.

⁹⁴ "Administrative Rules Governing the Certification of Michigan Teachers," R.390.1105(3).

⁹⁵ Correspondence between Harvey Harkness, Director, Office of Teacher Education and Professional Standards and the writer, May 12, 1976.

⁹⁶ "Regulations Governing the Certification of Educational Personnel," June 1976, p. 2, Section D.

boards in Delaware follow the opinion of the attorney general, who states the use of student teachers is a legal activity.⁹⁷

In four states there is no evidence to show any authorization by which a local school board may accept a student teacher into their respective schools. The local board is not engaged in either an authorized or unauthorized activity. Usually in these states the school board accepts student teachers because it is a long standing practice and/or because the board and the teacher institution considers the student teacher to be a guest within the school system.

"In Massachusetts, the school committees make cooperative arrangements with the various universities whereby students may come into the public schools for student teaching."⁹⁸ There are no statutes, administrative rules or regulations, court decisions, or attorney general's opinions regarding this relationship. Although Texas has provided funds for its student teaching program⁹⁹ it does not have a statute, administrative rule or regulation, court decision, or attorney general's opinion regarding student teachers. South Carolina and Louisiana have no legal guidelines dealing with any aspect of student teaching. Even though these states have no specific provisions which might be interpreted to permit student teaching they

⁹⁷ Attorney General's Opinion, Richard S. Gebelein, Deputy Attorney General to Kenneth C. Madden, October 19, 1972, A.G. 82.

⁹⁸ Correspondence between Joseph Robinson, Legal Office and the writer, April 27, 1976.

⁹⁹ Vernon's Texas Statutes, § 11.311.

are not necessarily engaged in an illegal activity. Other states permit student teaching based on very weak interpretations. (See Table 3)

1b. Do local school boards have the authority to permit undergraduate students to serve as aides in the public schools?

Three states have statutes which specifically authorize local school boards to permit undergraduate aides in the public schools.

Under California law local boards may use "teacher aides, instructional aides, or teacher-assistants."¹⁰⁰

Florida allows the usage of undergraduate aides under the following statute:

Teacher aides may be assigned by a school board to assist members of the instructional staff in carrying out their instructional and professional duties and responsibilities as prescribed by regulations of the state board of education. A teacher aide shall not be required to hold a teaching certificate but shall possess such minimum qualifications as prescribed by the state board of education and the school board.¹⁰¹

Illinois statute allows undergraduate aides by the following provision: "School Boards may employ non-teaching personnel or utilize volunteer personnel for non-teaching duties not requiring instructional judgment or evaluation of pupils."¹⁰²

Express legislation also exists in eight states and the District of Columbia providing for local school boards to permit the use

¹⁰⁰ California Code, § 13162.

¹⁰¹ Florida Statutes, § 231.141.

¹⁰² Illinois Revised Statutes, § 10-22.34.

Table 3

Status of Student Teachers Regarding the Question of Whether a Local School Board has the Authority to Permit a Student Teacher in the Public Schools: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/ regulations	State Supt. Int./ Atty's. General opinions	No evidence found addressing question
Alabama			X			
Alaska					X	
Arizona			X			
Arkansas	X					
California	X					
Colorado		X				
Connecticut			X			
Delaware						X
District of Columbia		X				
Florida			X			
Georgia				X		
Hawaii				X		
Idaho			X			
Illinois	X					

Table 3--(Continued)

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/ regulations	State Supt. Int./ Atty's. General opinions	No evidence found address- ing question
Indiana	X					
Iowa	X					
Kansas	X					
Kentucky	X					
Louisiana						X
Maine				X		
Maryland	X					
Massachusetts						X
Michigan				X		
Minnesota	X					
Mississippi			X			
Missouri			X			
Montana			X			
Nebraska	X					
Nevada	X					
New Hampshire					X	
New Jersey			X			
New Mexico			X			
New York	X					
North Carolina	X					

Table 3--(Continued)

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/regulations	State Supt. Int./Atty's. General opinions	No evidence found addressing question
North Dakota	X					
Ohio				X		
Oklahoma		X				
Oregon	X				X	
Pennsylvania				X		
Rhode Island				X		
South Carolina						X
South Dakota	X					
Tennessee			X			
Texas						X
Utah	X					
Vermont					X	
Virginia			X			
Washington	X					
West Virginia				X		
Wisconsin				X		
Wyoming	X					

of undergraduate students as aides in the schools as the statutes are rather broad in nature.

Colorado statute would permit undergraduate aides as:

The board of education of each school district is authorized to enter into written, contractual agreements or arrangements with any college or university for the purpose of providing field experiences in teacher education. Field experiences shall include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution regardless of the title of his position.¹⁰³

Wyoming allows the local school districts to be used for field experiences by students enrolled in teacher education programs regardless of the title of the student and/or the program.¹⁰⁴ Wyoming legislation is very similar in structure to that of Colorado regarding the legal authority of local school boards in permitting clinical experiences. Likewise, North Dakota allows for "supervised field experiences" in the public schools.¹⁰⁵

Nevada statutes are broad enough to allow the placement of undergraduate aides in the public schools as it allows the schools to be used "for teaching laboratory experiences."¹⁰⁶ Maryland statute allows the county boards of education and the Board of School Commissioners of Baltimore City to permit "... classroom or administrative

¹⁰³ CRS., § 22-62-103.

¹⁰⁴ W.S., § 21-510.

¹⁰⁵ NDCC, § 15-47-40.

¹⁰⁶ N.R.S., § 391.095.

experience for . . . student interns."¹⁰⁷ South Dakota law is similar in allowing these activities.¹⁰⁸

. . . for the purpose of providing teaching experience for students thereof preparing for the educational profession and for the services of persons working jointly for any such school corporation and any such institution.¹⁰⁹

Kentucky law states:

(4) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.¹¹⁰

Undergraduate aides are permitted in the public schools of the District of Columbia under the District of Columbia Code which allows for the "free and voluntary services of educators and teachers."¹¹¹

In authorizing the Board of Regents to enter into agreements for teacher training, Washington statutes state the public schools "may be used by the university for purposes of training students at said university as teachers. . . ."¹¹²

Four states have some form of implied legislation which would seem to permit the practice of placing undergraduate aides in the

¹⁰⁷ Maryland School Law, § 116 B.

¹⁰⁸ S.D.C.L., § 13-53-8.

¹⁰⁹ Indiana Code, § 20-5-10-1.

¹¹⁰ K.R.S., § 161.042(4).

¹¹¹ District of Columbia Code, § 31-802.

¹¹² R.C.W., § 28B. 10.600.

public schools within each of those states. In Alabama¹¹³ and Virginia¹¹⁴ the same provisions that might allow student teaching might also allow undergraduate aides in the public schools.

Montana school boards have the power to use non-salaried undergraduate aides under a broadly worded statute.¹¹⁵ Connecticut school boards may accept volunteers.¹¹⁶ This being the case, it would seem reasonable to assume that if a board so desired, it could legally accept undergraduate aides for clinical experiences.

Under Mississippi law, undergraduate aides might be permitted in the public schools under the term "intern." Part of the statute is as follows:

. . . "student teacher" or "intern" shall mean a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is formally assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator.¹¹⁷

A few state departments of education require a pre-student teaching experience by a rule/regulation. The West Virginia Department

¹¹³ Code of Alabama, § 52.

¹¹⁴ Const. of Virginia, Art. VII, Sec. 7.

¹¹⁵ School Laws of Montana, § 75-6001.

¹¹⁶ General Statutes, § 10-235, 1972 Amendment.

¹¹⁷ Mississippi Code, § 37-132-1.

of Education requires a "non-instructional service clinical experience" in all teacher education programs.¹¹⁸ Georgia¹¹⁹ and Oregon¹²⁰ have similar requirements. Pennsylvania requires every college/university to "present evidence of a comprehensive planned sequence of professional laboratory experiences . . ."¹²¹ Iowa's administrative code is similar in requiring of all colleges/universities to develop "an in-depth experience with children . . . early in the teacher education program." Furthermore, Iowa's institutions are charged with developing "a program of designed, basic experiences in a variety of realistic settings within the core of its professional curriculum."¹²² Ohio requires colleges/universities to assure the State Board of Education of "practical school experiences starting the freshman or sophomore year" for all students preparing for teaching credentials.¹²³ Hawaii, on the other hand, allows, rather than requires, such activities.¹²⁴ Oklahoma is permissive, as the State Department of Education encourages

¹¹⁸"Standards for the Accreditation of Teacher Education Programs in West Virginia, 1974" (Charleston: West Virginia Department of Education), p. 276.

¹¹⁹"Guidelines for Competency-Based Education."

¹²⁰"Oregon Rules for Certification of Teachers, Specialists and Administrators" (Salem: Teacher Standards and Practices Commission), Rule 32-031.

¹²¹State Board Regulations, chap. 49, sec. 49.13.

¹²²Iowa Administrative Code, 19.15(2).

¹²³"Guidelines for Colleges or Universities Preparing Teachers" (Columbus: State Board of Education), p. iii.

¹²⁴Department of Education, Policy #5104.

pre-student teaching experiences,¹²⁵ but there are no requirements for these clinical experiences. New Jersey regulations encourage such clinical experiences by stating, "The programs of professional study in education should make provisions throughout for observation and experience with school-age youth."¹²⁶ In these states it would seem quite reasonable to assume that since the colleges/universities are either required or allowed to engage in these various programs, it would be allowed for the local school board to engage in.

The State Department of Education of Rhode Island, by rule, permits undergraduate aides in the public schools as they may be classified as assistant teachers as part of a college/university practicum.¹²⁷

Two additional states permit local school boards to allow undergraduate aides in the public schools by virtue of a state department rule/regulation concerning permits. Wisconsin¹²⁸ allows for intern permits for persons working in internship programs as regulated by the department of public instruction. This regulation is broad enough to include undergraduate aide programs. Minnesota issues

¹²⁵"Guidelines for Student Teaching in Oklahoma" (Oklahoma City: Oklahoma State Department of Education), pp. 21-22.

¹²⁶"New Jersey Instructional Supplement to Standards for State Approval of Teacher Education" (Trenton: Department of Education), p. 29.

¹²⁷"Auxiliary School Personnel: Their Employment and Utilization" (Providence: Rhode Island Department of Education), p. 9.

¹²⁸Wisconsin Administrative Code, Section P1 3.01 (2)(g).

teacher intern certificates which might include certain undergraduate aide programs as the Department of Education regulations require two years of teacher preparation.¹²⁹

Local school boards in two states are permitted to accept undergraduate aides in the public schools by virtue of a state attorney general's opinion. Kansas permits local school boards to accept undergraduate aides into the public schools based on an attorney general's opinion and the state department's interpretation of it.¹³⁰ Delaware permits local school boards using undergraduate aides as long as the school district superintendent approves such programs.¹³¹

The research shows that in nineteen states, local school boards have not been given the legal authority to permit undergraduate aides in their respective schools. These states are as follows:

Alaska	Maine	New Hampshire	Tennessee
Arkansas	Massachusetts	New Mexico	Texas
Arizona	Michigan	New York	Utah
Idaho	Missouri	North Carolina	Vermont
Louisiana	Nebraska	South Carolina	

In these states undergraduate aides are permitted either by custom or a guest-host relationship, i.e., it is a long-standing practice and/or the local board on its own initiative extends itself for

¹²⁹ State of Minnesota, Department of Education, Regulation 348.

¹³⁰ Attorney General's Opinion, Kent Frizzell, Attorney General to David W. Kester, November 10, 1969, and based on correspondence between Gene Seifert, Assistant Superintendent of Emporia Unified District No. 253 and David W. Kester, Departmental Attorney, November 18, 1969.

¹³¹ Attorney General's Opinion, Request No. S-296, October 19, 1972.

the use of these individuals by the college/university. This is not to say that other states are in a better legal position as many permit this clinical experience based on extremely vague and broad guidelines. In all instances it would be the court's decision as to the legality of the placement of undergraduate aides in the public schools depending upon the state and circumstances in question.

(See Table 4)

1c. Do local school boards have the authority to permit graduate students to serve as interns in the public schools?

Express legislation clearly authorizes school boards in California to accept graduate students as interns within the public schools.¹³²

Illinois statute allows local school boards to permit graduate interns as follows:

School Boards may also employ students holding a bachelor's degree from a recognized institution of higher learning as part time teaching interns when such students are enrolled in a college or university internship program, which has prior approval by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board, leading to a masters degree.¹³³

Washington authorizes public school districts to be used for the training of "teachers, supervisors, principals, or supervisors."¹³⁴ Graduate intern programs would, therefore, be covered in such language.

¹³² California Code, § 13162.

¹³³ Illinois Revised Statutes, § 10-22.34.

¹³⁴ R.C.W., 28B, 10.140.

Table 4

Status of Undergraduate Aides Regarding the Question of Whether a Local School Board has the Authority to Permit an Undergraduate Aide in the Public Schools: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia
for the 1976 - 1977 School Year

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/ regulations	State Supt. Int./ Atty's. General regulations	No evidence found addressing question
Alabama			X			
Alaska						X
Arizona						X
Arkansas						X
California	X					X
Colorado		X				
Connecticut			X			
Delaware						X
District of Columbia	X					
Florida		X				
Georgia				X		
Hawaii				X		
Idaho						X
Illinois	X					

Table 4--(Continued)

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/regulations	State Supt. Int./Atty's. General opinions	No evidence found addressing question
Indiana	X					
Iowa				X		
Kansas					X	
Kentucky						X
Louisiana						X
Maine						X
Maryland	X					
Massachusetts						X
Michigan						X
Minnesota				X		
Mississippi			X			
Missouri						X
Montana			X			
Nebraska						X
Nevada	X					
New Hampshire						X
New Jersey				X		
New Mexico						X
New York						X
North Carolina						X

Table 4--(Continued)

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/ regulations	State Supt. Int./ Atty's. General opinions	No evidence found addressing question
North Dakota			X			
Ohio				X		
Oklahoma				X		
Oregon				X		
Pennsylvania				X		
Rhode Island					X	
South Carolina						X
South Dakota	X					
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia			X			
Washington	X					
West Virginia				X		
Wisconsin					X	
Wyoming	X					

Both Wyoming¹³⁵ and Colorado¹³⁶ permit local school boards to receive students for "field experiences" regardless of the title of the program involved. South Dakota allows contracts for such programs.¹³⁷

Maryland¹³⁸ and North Dakota¹³⁹ authorize local school boards to permit "supervised field experiences," thereby authorizing graduate interns to function within these two states.

Nevada statute allows local school boards to permit "laboratory experiences" for university students from the University of Nevada System. This would allow for graduate interns in the public schools of Nevada.¹⁴⁰ West Virginia authorizes the county boards of education to accept students in "internship programs."¹⁴¹

Kentucky requires local school boards to permit "student preparing for the education profession" for both "student teaching experiences" and "professional laboratory experiences."¹⁴²

Mississippi permits graduate interns as a statute allows for

¹³⁵ W.S. § 21-510.

¹³⁶ C.R.S., § 22-62-103.

¹³⁷ S.D.C.L., § 13-53-8.

¹³⁸ Maryland School Law, § 116B.

¹³⁹ N.D.C.C., § 15-47-40.

¹⁴⁰ N.R.S., § 391.095.

¹⁴¹ West Virginia Code, § 18-2-6.

¹⁴² KRS., § 161.042(2).

an intern from an institution of higher learning for public school experiences.¹⁴³

Florida statute would allow graduate interns under the definition of Teacher Aide. The statute says, in part, "Teacher aides may include parents, foster grandparents, paraprofessionals, students, and others"¹⁴⁴

The District of Columbia,¹⁴⁵ and Connecticut¹⁴⁶ statutes allow for the local school boards to accept the services of volunteers in the public schools. Since graduate interns are volunteers and their services are voluntary in nature, it would seem to be a legal activity in which the local board could engage.

Both Alabama¹⁴⁷ and Virginia¹⁴⁸ would appear to give local school boards such autonomy in conducting their affairs that each could receive graduate interns in the school system.

New Jersey,¹⁴⁹ Georgia,¹⁵⁰ Hawaii,¹⁵¹ and Pennsylvania¹⁵²

¹⁴³Mississippi Code, § 37-132-1.

¹⁴⁴Florida Statutes, § 228.041 (25).

¹⁴⁵District of Columbia Code, § 31-802.

¹⁴⁶General Statutes, § 10-235, 1972 Amendment.

¹⁴⁷Code of Alabama, § 52.

¹⁴⁸Const. of Virginia, Art. VII, sec. 7.

¹⁴⁹New Jersey Administrative Code, 6:11-7.5.

¹⁵⁰"Guidelines for Competency-Based Education."

¹⁵¹Dept. of Ed., Policy #5104.

¹⁵²"Guidelines, Roles, and Procedures for Improving the Student-Teaching Field Experiences in Pennsylvania" (Harrisburg: Pennsylvania Department of Public Instruction), p. 1.

encourage graduate internships, specifically some form of post-student teaching laboratory experience.

Local school boards in Delaware may receive graduate interns in the public schools by the issuance of a standard intern certificate.¹⁵³ Wisconsin does likewise,¹⁵⁴ as both states allow for the employment of students as interns. Rhode Island is similar in allowing employment of interns with Bachelor degrees working toward certification.¹⁵⁵

Kansas permits local school boards to receive graduate interns in the same manner in which they receive undergraduate aides previously mentioned in section 1b.

No evidence could be found that in the following states local school boards have the specific authority to permit graduate intern placements in the public schools:

Alaska	Massachusetts	New Mexico	Tennessee
Arkansas	Michigan	New York	Texas
Idaho	Minnesota	North Carolina	Utah
Indiana	Missouri	Oklahoma	Vermont
Iowa	Montana	Ohio	
Louisiana	Nebraska	Oregon	
Maine	New Hampshire	South Carolina	

In the above states there is no mention of a local board of education being able to engage in this activity. (See Table 5)

¹⁵³"A Compilation of School Laws" (Dover: Delaware State Department of Public Instruction), p. 93.

¹⁵⁴Wisconsin Adm. Code, Sec. P1 3.01(2)(g).

¹⁵⁵"Aux. Sch. Per.", p. 9.

Table 5

Status of Graduate Interns Regarding the Question of Whether a Local School Board has the Authority to Permit a Graduate Intern in the Public Schools: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia
for the 1976 - 1977 School Year

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/ regulations	State Supt. Int./ Atty's. General regulations	No evidence found addressing question
Alabama			X			
Alaska						X
Arizona				X		
Arkansas						X
California	X					X
Colorado			X			
Connecticut			X			
Delaware					X	
District of Columbia			X			
Florida			X			
Georgia					X	
Hawaii					X	
Idaho						X
Illinois			X			

Table 5--(Continued)

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/regulations	State Supt. Int./ Atty's. General opinions	No evidence found addressing question
Indiana						X
Iowa						X
Kansas					X	
Kentucky		X				X
Louisiana						X
Maine						X
Maryland		X				
Massachusetts						X
Michigan						X
Minnesota						X
Mississippi		X				
Missouri						X
Montana						X
Nebraska						X
Nevada		X				
New Hampshire				X		X
New Jersey						X
New Mexico						X
New York						X
North Carolina						X

Table 5--(Continued)

State	Express legislation	Implied legislation	Court decision	State Dept. of Education rules/ regulations	State Supt. Int./ Atty's. General opinions	No evidence found addressing question
North Dakota		X				
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island				X		
South Carolina						X
South Dakota		X				
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia		X				
Washington			X			
West Virginia			X			
Wisconsin	X					
Wyoming			X			

2a. Is it necessary that student teachers hold a preliminary certificate issued by the state certifying agency?

California, Missouri, Utah and Kansas have legislation which requires student teachers to hold a preliminary certificate which entitles them to engage in their clinical experience. Utah statute says:

. . . a certificate for student teaching shall be issued only upon recommendation of a teacher training institution in the state of Utah approved and accredited by the state board of education. The certificate shall authorize the holder to teach in a specified school or schools under the general and specific direction of a qualified and regularly certificated person. The certificate shall be valid only for the student teaching period. No person shall perform student teaching without first being a holder of the certificate herein named.¹⁵⁶

Missouri issues student teaching certificates to student teachers under the following statute:

Issuance of teacher's licenses-1. Certificates of license to teach in the public schools of the state shall be granted as follows: 1) by the State Board of Education, under rules and regulations prescribed by it, . . .¹⁵⁷

Part of a California statute says:

Prior to admission to any professional preparation program approved by the commission, a potential candidate for a credential may obtain a certificate of clearance from the commission which shall be issued when the commission has verified the candidate's personal identification and health status.¹⁵⁸

Kansas law requires all student teachers to hold student teaching certificates.¹⁵⁹ Certificates are issued by the teacher

¹⁵⁶ Utah Code, 53-2-15.

¹⁵⁷ RSMo., 168, 021(1).

¹⁵⁸ Education Code, § 13160.

¹⁵⁹ K.S.A. 72-1392.

education institution under rules and regulations governing the issuance and use of such certificates.¹⁶⁰

The Hawaii Department of Education requires student teachers to hold a student teaching certificate which is issued by the teacher training institution.¹⁶¹ The basis of this requirement is found in the following statute according to the department:

Teachers; qualifications; certificates. No person shall serve as a teacher in any school without first having obtained a certificate from the department of education, which certificate shall be issued without cost to the teacher, in such form as the department determines. The department shall establish types of certificates in the educational field and the requirements to qualify for those certificates.¹⁶²

Student teaching certificates are issued by the Rhode Island Department of Education at the request of colleges or universities having teacher education programs. The student teacher must have such a certificate in order to engage in the clinical experience.¹⁶³ Also, before being considered as lawfully performing student teaching, such individuals in the state of Michigan must have a student teaching certificate.¹⁶⁴

The Wyoming Department of Education issues Student Teaching Certificates. The purpose of this "certificate is to insure that the

¹⁶⁰ Kansas Administrative Regulations, 91-19-1 et seq.

¹⁶¹ Dept. of Ed. Policy #5104.

¹⁶² Hawaii Revised Statutes, § 297-2.

¹⁶³ McCarthy, April 27, 1976.

¹⁶⁴ R. 390 1105(3).

student teachers are covered under the district's liability insurance programs."¹⁶⁵

Both Wisconsin and Delaware require certificates if a student teacher is employed. Wisconsin administrative rule requires that if an intern receives payment, he/she must have an intern license. Student teachers would be considered under this rule if they received payment. The administrative rule is as follows:

A permit to be known as an intern license may be given to a person working in an internship program which is approved by the state superintendent of public instruction. An intern who is paid by a board of education must hold such a license. Such license may be issued only to a student recommended by the proper teacher preparing college or university authorities and must hold senior or graduate ranking. A signed request by the administrator of schools of the participating district must be filed as a condition for the issuance of such license.¹⁶⁶

Delaware requires a Teacher Intern Certificate if the student teacher is employed and working in an internship program from an accredited college or university.¹⁶⁷ Minnesota has a similar regulation for intern certificates for student teachers who are employed. The regulation states, "Such certificate shall be issued only upon the written request of the administrative head of the school system. . . ."¹⁶⁸

¹⁶⁵ Correspondence between Barbara A. Erickson, Attorney, Wyoming State Department of Education and the writer, September 9, 1976.

¹⁶⁶ Wisconsin Administrative Code, Sec. P1 3.01(2)(g).

¹⁶⁷ "School Laws," p. 93.

¹⁶⁸ State of Minnesota, Department of Education, Reg. 348.

New Jersey allows the Commissioner of Education to "authorize issuance of intern certificates to the students engaged" in student teaching.¹⁶⁹ Alaska allows the commissioner of education to issue a "letter of authorization" to a student teacher.

In the remainder of the states and the District of Columbia, the research shows that a student teacher is not required to hold a certificate before engaging in this clinical experience. (See Table 6)

2b. Is it necessary that undergraduate aides hold a preliminary certificate issued by the state certifying agency?

Only California and New Jersey speak to this question. The California statute is the most specific legislation regarding this question in the United States. It says:

Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher-assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals and routinely report its findings.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate and graduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.

A certificate to serve as a temporary teacher-assistant shall be issued, by the county superintendent of schools of the county in which the service is to be rendered, to the holder of a recommendation from an accredited college, university, or community college. The certificate shall authorize the teacher to serve as a teacher-assistant. No such certificate shall be granted for a period exceeding two years.¹⁷⁰

¹⁶⁹ N.J. Adm. Code, 6:11-75.

¹⁷⁰ California Code, § 13162.

Table 6

Status of Student Teachers Regarding the Question of Whether a Student Teacher is Issued a Preliminary Certificate: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES	NO
				State Supt. Interpretations/ Atty's. General Opinions	
Alabama					X
Alaska				X	
Arizona					X
Arkansas					X
California	X				
Colorado					X
Connecticut					X
Delaware			X		
District of Columbia					X
Florida					X
Georgia					X
Hawaii			X		
Idaho					X
Illinois					X

Table 6 (Continued)

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES	NO
				State Supt. Interpretations/ Atty's. General Opinions	
Indiana					X
Iowa					X
Kansas		X			
Kentucky					X
Louisiana					X
Maine					
Maryland					X
Massachusetts					X
Michigan				X	
Minnesota				X	
Mississippi					X
Missouri		X			
Montana					X
Nebraska					X
Nevada					X
New Hampshire					X
New Jersey				X	
New Mexico					X
New York					X
North Carolina					X

Table 6 (Continued)

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES	NO
				State Supt. Interpretations/ Atty's. General Opinions	
North Dakota					X
Ohio					X
Oklahoma					X
Oregon					X
Pennsylvania					X
Rhode Island				X	
South Carolina					X
South Dakota					X
Tennessee					X
Texas					X
Utah		X			
Vermont					X
Virginia					X
Washington					X
West Virginia					X
Wisconsin				X	
Wyoming				X	

73

New Jersey is rather permissive as the New Jersey Administrative Code states:

The Commissioner of Education, upon recommendation of the State Board of Examiners, may approve undergraduate or graduate programs of teacher education including periods of apprenticeships or internships, may authorize local school districts to affiliate all teacher training centers with such approved programs, and may authorize issuance of intern certificates to the students engaged in such programs.¹⁷¹

The research shows that in the remainder of the states and the District of Columbia it is not necessary for the undergraduate aide to hold a preliminary certificate. (See Table 7)

2c. Is it necessary that graduate interns hold a preliminary certificate issued by the state certifying agency?

California statute requires graduate interns to hold a preliminary certificate as previously mentioned in section 2b of this chapter. The county superintendent of schools issues this certificate to the graduate intern rather than the California Department of Education.¹⁷²

Minnesota,¹⁷³ Wisconsin,¹⁷⁴ and Delaware¹⁷⁵ require graduate interns to hold a certificate if they are employed by a school district.

¹⁷¹ 6:11-7.5.

¹⁷² California Code, § 13162.

¹⁷³ Department of Education, Reg. 48.

¹⁷⁴ Wisconsin Adm. Code, p. 1 3.01(2)(g).

¹⁷⁵ "School Laws," p. 93.

Table 7

Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide is Issued a Preliminary Certificate: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	YES				NO
	Legislation	Court Decision	State Dept. of Education rules/regulations	State Supt. Interpretations/Atty's. General Opinions	
Alabama					X
Alaska					X
Arizona					X
Arkansas					X
California	X				
Colorado					X
Connecticut					X
Delaware					X
District of Columbia					X
Florida					X
Georgia					X
Hawaii					X
Idaho					X
Illinois					X

Table 7 (Continued)

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES	NO
				State Supt. Interpretations/ Atty's. General Opinions	
Indiana					X
Iowa					X
Kansas					X
Kentucky					X
Louisiana					X
Maine					X
Maryland					X
Massachusetts					X
Michigan					X
Minnesota					X
Mississippi					X
Missouri					X
Montana					X
Nebraska					X
Nevada					X
New Hampshire					X
New Jersey				X	
New Mexico					X
New York					X
North Carolina					X

Table 7 (Continued)

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES	NO
North Dakota					X
Ohio					X
Oklahoma					X
Oregon					X
Pennsylvania					X
Rhode Island					X
South Carolina					X
South Dakota					X
Tennessee					X
Texas					X
Utah					X
Vermont					X
Virginia					X
Washington					X
West Virginia					X
Wisconsin					X
Wyoming					X

Employment is permissible under state law in these states. In Minnesota and Wisconsin the administrative head of a local school district must request such certification.

New Jersey authorizes the Commissioner of Education to issue intern certificates to graduate students engaged in clinical experiences in the public schools.¹⁷⁶

The research shows that with the exception of the previous five states, no state or the District of Columbia requires graduate interns to hold a form of an intern certificate. (See Table 8)

Section 2 concerns the areas of potential employer-employee relationships involving educational clinical experiences in the public schools.

3a) Are student teachers considered to be employees of the local school board while serving in their clinical experience?

In discussing how the various states consider the question of whether or not student teachers are employees of the local board, the analysis was narrow by design. Only specific statutes, court decisions, state department rules/regulations, opinions of the state attorneys general or state superintendent interpretations which specifically addressed the question were considered. In addition, the analysis was confined to what is referred to as the normal interpretation. If a state allowed for a student teacher to be employed as a substitute

¹⁷⁶ N.J. Adm. Code, 6:11-7.5.

Table 8

Status of Graduate Interns Regarding the Question of Whether a Graduate Intern is Issued a Preliminary Certificate: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES	NO
Alabama				X	
Alaska				X	
Arizona				X	
Arkansas				X	
California	X				
Colorado					X
Connecticut					X
Delaware			X		
District of Columbia					X
Florida					X
Georgia					X
Hawaii					X
Idaho					X
Illinois					X

Table 8 (Continued)

State	Legislation	Court Decision	YES	NO
			State Dept. of Education	State Supt. Interpretations/ rules/regulations
Indiana				X
Iowa				X
Kansas				X
Kentucky				X
Louisiana				X
Maine				X
Maryland				X
Massachusetts				X
Michigan			X	
Minnesota				X
Mississippi				X
Missouri				X
Montana				X
Nebraska				X
Nevada				X
New Hampshire				X
New Jersey			X	
New Mexico				X
New York				X
North Carolina				X

08

Table 8 (Continued)

State	Legislation	Court Decision	State Dept. of Education rules/regulations	YES		NO
					State Supt. Interpretations/ Atty's. General Opinions	
North Dakota						X
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island						X
South Carolina						X
South Dakota						X
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin			X			
Wyoming						X

teacher¹⁷⁷ or aide,¹⁷⁸ then for the purposes of this section it was excluded as it is addressed in question 11 which deals with jurisdictions which allow for these special activities.

Utah law requires all student teachers to hold a student teaching certificate and in doing so deems them to be certificated employees.¹⁷⁹

Four states have adopted legislation which recognizes that student teachers are employees for specific purposes. Colorado¹⁸⁰ and Nevada¹⁸¹ laws identify the student teacher to be an employee of the school district for purposes of workmen's compensation and insurance. North Dakota¹⁸² law deems the student teacher to be an employee of the school district relating to liability insurance.

California law says they are employees for purposes of reimbursement for loss of certain personal property.¹⁸³

Student teachers are considered to be employees in Hawaii as that state's Liability Act covers student teachers.¹⁸⁴ The

¹⁷⁷ e.g., Delaware.

¹⁷⁸ e.g., Wisconsin.

¹⁷⁹ Utah Code, Annotated, § 53-2-15.

¹⁸⁰ C.R.S., § 22-62-105(2).

¹⁸¹ N.R.S., § 391.095.

¹⁸² N.D.C.C., § 15-47-42.

¹⁸³ California Education Code, section 13159 and Board Rule 1672.

¹⁸⁴ Based on personal correspondence between Winona L. Chang, Staff Specialist Personnel Certification and Development, Hawaii Department of Education, and the writer, April 20, 1976.

The Tort Liability Act of Hawaii defines "Employees of the State" as follows:

"Employees of the State" includes officers and employees of any state agency, members of the Hawaii national guard, Hawaii state guard, and persons acting in behalf of a state agency in an official capacity, temporarily, whether with or without compensation . . .¹⁸⁵

Wyoming statute states that student teachers are not public employees,¹⁸⁶ however, they are deemed employees of the school district "for the purpose of workmen's compensation and liability insurance as provided for other district employees."¹⁸⁷

In Maryland, Indiana, and West Virginia statutes or court decisions reflect that a student teacher is not an employee of the local school board. In Maryland the student teacher is an agent, not an employee, but is afforded the same rights of employees for the purposes of liability insurance and workmen's compensation.¹⁸⁸ In reality, Maryland provides the same benefits for student teachers as Colorado and Nevada, but the legislatures disagree as to whether or not they are employees. Indiana law is similar in that student teachers are not employees of the local school corporation. They are, however, treated the same as employees for purposes of liability protection.¹⁸⁹

¹⁸⁵ Hawaii Revised Statutes, § 662-1(2).

¹⁸⁶ Wyoming Statutes, § 21-512(a).

¹⁸⁷ § 21-512(G)

¹⁸⁸ Maryland School Law, § 112B.

¹⁸⁹ Indiana Code, § 246. This is also reflected in Indiana University's "Agreement Concerning Placement of Student Teachers and Other Participants."

In a West Virginia case, James v. West Virginia Board of Regents¹⁹⁰ the United States District Court reasoned that the objective of becoming a practice teacher was to become employed as a teacher. If one accepts this reasoning, which seems logical, one would have to conclude that student teachers cannot be employed as a teacher of the county board while engaged in their clinical experience, at least in the state of West Virginia.

"Student teachers are not, as such, legally to be considered employees of the District of Columbia Public Schools." However, it might be possible, given a certain factual situation, that a student teacher would be considered an "agent" of the school system.¹⁹¹

Based on interpretation of state department rules/regulations, New Jersey does not consider student teachers to be employees of the local boards.¹⁹²

It is stated in New Mexico regulations that the purpose of student/practice teaching is to provide the individual with "pre-employment apprenticeship experience."¹⁹³ If the purpose of the experience is a pre-employment apprenticeship, then it would seem that student teachers would not be considered employees of the local board in that state.

¹⁹⁰James v. West Virginia Board of Regents, 322 F. Supp. 217 (S.D.W.Va., 1971).

¹⁹¹Margolies, October 15, 1976.

¹⁹²Based on personal correspondence between Fred A. Price, Director, Bureau of Teacher Education and Academic Credentials, and the writer, August 31, 1976.

¹⁹³New Mexico State Board of Education, Regulation No. 72-2.

In Virginia¹⁹⁴ and Kentucky¹⁹⁵ student teachers are not considered to be employees of the local school board on the basis of a ruling by the Attorney General. The largest teacher training institution in Iowa states that student teachers are not employees of the board.¹⁹⁶

Statutes in several states state in various ways that student teachers have all the rights and privileges or status of a regular certified teacher.¹⁹⁷ These states, however, do not consider the student teacher an employee of the local board as they still consider the student to be involved in a clinical experience. (See Table 9)

3b) Are undergraduate aides considered to be employees of the local school board while serving in their clinical experience?

Colorado and Nevada recognize undergraduate aides as employees for the purposes of workmen's compensation and liability insurance. The Colorado statute uses the broad terms "any student of teaching" and "field experience" rather than the narrower terms of "student teacher" and "practice teaching." A pertinent excerpt from the Colorado statute is as follows:

¹⁹⁴Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., January 13, 1976.

¹⁹⁵Attorney General's Opinion, 63-269, April 2, 1963.

¹⁹⁶"Handbook for Sponsor Teacher and Associate Teachers," Cedar Falls: University of Northern Iowa), p. 58.

¹⁹⁷See Question 6a concerning procedural due process guidelines for student teacher dismissal in this section for a discussion of these state laws.

Table 9

Status of Student Teachers Regarding the Question of Whether a Student Teacher is an Employee of Local Boards of Education: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Alabama					X
Alaska					X
Arizona					X
Arkansas					X
California	Yes				
Colorado		Yes			
Connecticut					X
Delaware					X
District of Columbia				No	
Florida					X
Georgia					X
Hawaii					
Idaho		Yes			X
Illinois					X

Table 9--Continued

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Indiana	No		No		
Iowa					X
Kansas					X
Kentucky				No	X
Louisiana					
Maine					X
Maryland	No				X
Massachusetts					X
Michigan					X
Minnesota					X
Mississippi					X
Missouri					X
Montana					X
Nebraska					X
Nevada	Yes				
New Hampshire					X
New Jersey			No		
New Mexico			No		
New York					X
North Carolina					X

Table 9--Continued

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
North Dakota	Yes				
Ohio				X	
Oklahoma				X	
Oregon				X	
Pennsylvania				X	
Rhode Island				X	
South Carolina				X	
South Dakota				X	
Tennessee				X	
Texas				X	88
Utah	Yes				
Vermont					X
Virginia					
Washington				No	
West Virginia		No			
Wisconsin					X
Wyoming	Yes/No (see text)				

The student of teaching, during his field experience, shall be deemed an employee of the school district . . . for the purpose of workmen's compensation and liability insurance . . .¹⁹⁸

Nevada law is somewhat similar in that it provides for the assignment of university students for among other things, "teaching laboratory experiences." Students so assigned are considered employees for the same purposes that Colorado law recognizes, i.e., liability insurance and workmen's compensation.¹⁹⁹

Since Hawaii law recognizes student teachers as employees, under the definition of employees of the State Tort Liability Act, it would seem reasonable to conclude that undergraduate aides would be included also. The above act defines "Employees of the state" as "persons acting in behalf of a state agency in an official capacity, temporarily, whether with or without compensation."²⁰⁰

As indicated previously, the Wyoming statute pertaining to this matter uses the terminology "students of teaching" and "field experience" consequently undergraduate aides are considered employees for purposes of workmen's compensation and liability insurance.²⁰¹

Maryland specifically provides that "student interns" are to be considered agents of the county boards for purposes of workmen's compensation and liability insurance.²⁰²

¹⁹⁸C.R.S., § 22-62-105(2).

¹⁹⁹N.R.S., § 391.095.

²⁰⁰Hawaii Revised Statutes, § 662-1(2).

²⁰¹Wyoming Statutes, § 21-512(a)(b).

²⁰²Maryland School Law, § 112B.

"Student participants" as well as student teachers are not considered to be employees in the state of Indiana. However, they are afforded the same protection as employees for liability insurance purposes.²⁰³

In Virginia, Iowa, and the District of Columbia as mentioned in the section of student teachers being employees, the Legal Counsel to the Superintendent of the District of Columbia²⁰⁴ and the Attorney General of Virginia²⁰⁵ both specifically say that the student teacher is not an employee of the board. Likewise, the University of Northern Iowa takes this position.²⁰⁶ Although no evidence was found in the research specifically addressing undergraduate aides as employees, it would be inconsistent for them to consider them employees given the rationale of the opinions expressed by these individuals and institution. (See Table 10)

3c) Are graduate interns considered to be employees of the local board while serving in their clinical experience?

The research shows that in six states the question of whether or not graduate interns were considered employees of the board

²⁰³ Indiana Code, § 246, and Indiana University's "Agreement, The term "student participant" is defined as "... a university student assigned as part of his university course work to observe or participate in a project at the School Corporation in some manner other than student teaching," p. 1.

²⁰⁴ Margolies, October 15, 1976.

²⁰⁵ Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., January 13, 1976.

²⁰⁶ "Handbook."

Table 10

Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide is an Employee of Local Boards of Education: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia
for the 1976 - 1977 School Year

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Alabama					X
Alaska					X
Arizona					X
Arkansas					X
California					X
Colorado	Yes				
Connecticut					X
Delaware					X
Dist. of Columbia					X
Florida					X
Georgia					
Hawaii	Yes (see text)				X
Idaho					X
Illinois					X

Table 10--Continued

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Indiana		No			(see text)
Iowa					X
Kansas					X
Kentucky					X
Louisiana					X
Maine					X
Maryland		No			X
Massachusetts					X
Michigan					X
Minnesota					X
Mississippi					X
Missouri					X
Montana					X
Nebraska					X
Nevada		Yes			
New Hampshire					X
New Jersey					X
New Mexico					X
New York					X
North Carolina					X

Table 10--Continued

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
North Dakota					X
Ohio					X
Oklahoma					X
Oregon					X
Pennsylvania					X
Rhode Island					X
South Carolina					X
South Dakota					X
Tennessee					X
Texas					X
Utah					X
Vermont					X
Virginia					X
Washington					X
West Virginia					X
Wisconsin					X
Wyoming		Yes/No (see text)			

is addressed. The states do so by virtue of general phrases or terms which must be reasonably interpreted.

It would seem reasonable to interpret a "student of teaching" to include a graduate intern; and "field experience" or "teaching laboratory experiences" to include graduate internship clinical experiences. Following this line of reasoning, graduate interns might well be considered employees of the local boards in Colorado²⁰⁷ and Nevada.²⁰⁸ Hawaii probably would regard the graduate intern as an employee also as he/she would be acting in behalf of the state, the nature of his/her duties would be temporary and the salary, or lack of one, would not be a factor.²⁰⁹

Wyoming legislation would include graduate interns under "students of teaching" and graduate internships under "field experiences." Graduate interns in Wyoming, therefore, would be considered employees for purposes of workmen's compensation and liability insurance.²¹⁰

Maryland law would consider graduate interns as "student interns" so they would be considered as agents rather than employees.²¹¹ Indiana law would classify graduate interns as "student participants" so they would not be considered employees.²¹² (See Table 11)

²⁰⁷C.R.S., § 22-62-105(2).

²⁰⁸N.R.S., § 391.095

²⁰⁹Hawaii Revised Statutes, § 662-1(2), see also student teachers and undergraduate aides being considered employees in Hawaii.

²¹⁰Wyoming Statutes, § 21-512(a)(b).

²¹¹Maryland School Law, § 112B.

²¹²Indiana Code, § 246, and Indiana University's "Agreement."

Table 11

Status of Graduate Interns Regarding the Question of Whether a Graduate Intern is an Employee of Local Boards of Education: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, and Attorneys General Opinions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Alabama					X
Alaska					X
Arizona					X
Arkansas					X
California					X
Colorado		Yes			X
Connecticut					X
Delaware					X
Dist. of Columbia					X
Florida					X
Georgia					X
Hawaii		Yes			X
Idaho					X
Illinois					X
Indiana		No			

Table 11--Continued

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Iowa					X
Kansas					X
Kentucky					X
Louisiana					X
Maine					X
Maryland		No			
Massachusetts					X
Michigan					X
Minnesota					X
Mississippi					X
Missouri					X
Montana					X
Nebraska					X
Nevada		Yes			
New Hampshire					X
New Jersey					X
New Mexico					X
New York					X
North Carolina					X
North Dakota					X

Table 11--Continued

State	Legis- lation	Court Decision	State Dept. of Ed. rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	No Evidence Found Addressing Question
Ohio					X
Oklahoma					X
Oregon					X
Pennsylvania					X
Rhode Island					X
South Carolina					X
South Dakota					X
Tennessee					X
Texas					X
Utah					X
Vermont					X
Virginia					X
Washington					X
West Virginia					X
Wisconsin					X
Wyoming	Yes/No (see text)				

4a) May student teachers receive financial compensation from the school district during their clinical experience?

The research shows that in forty states there are no legal guidelines concerning financial compensation to student teachers while serving in that capacity. It is very probable that in these states student teachers are not financially compensated because of: custom, lack of funds, and/or student teaching is regarded as basically a pre-employment experience.

Wisconsin allows student teachers to receive payment while engaged in their clinical activity. However, the State Superintendent must approve the internship program in order for compensation to be paid to the student teacher.²¹³ Colorado statutes provide "Each school district may, by mutual consent of the parties to the agreement, provide compensation to students of teaching.²¹⁴ "However, it is rare for student teachers to receive payment for student teaching service."²¹⁵

Student teachers in Minnesota may be paid for their services as they are subject to the Minnesota Teacher Retirement Fund and Social Security coverage.²¹⁶

²¹³Wisconsin Administrative Code, section P1 3.01(2)(g).

²¹⁴C.R.S., § 22-62-104(2).

²¹⁵Based on personal correspondence between Otto G. Ruff, Director of Teacher Education & Certification, and the writer, August 23, 1976.

²¹⁶Minnesota Department of Education, Regulation 348 (note).

Although no specific guidelines were discovered in the research regarding compensation for student teachers in Florida, the largest teacher producing college/university in Florida permits paid internships.²¹⁷

California law might allow student teachers to receive financial compensation. The statute is as follows:

Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals and routinely report its findings.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.²¹⁸

In California, student teachers are not being financially compensated as far as the Department of Education can determine.²¹⁹

Five states allow or would seem to permit student teachers to receive financial compensation in their clinical experience. This section is confined to the student teacher serving in his/her normal capacity and not that of another capacity, i.e., a substitute teacher.

²¹⁷ University of South Florida, "Guidelines for Internships."

²¹⁸ California Education Code, § 13162.

²¹⁹ Based on telephone interview between Thomas G. Griffin, Chief Counsel, California Department of Education, and the writer, June 14, 1976.

Since student teachers are only permitted by the District of Columbia Code if they are free and voluntary,²²⁰ they cannot receive payment during their clinical experience.

Student teachers must hold a Missouri Student Teacher Certificate in order to teach in that state. On the bottom of the certificate it clearly states that a "student teacher should not be paid a salary while performing assignments under authority of this certificate."²²¹ Kansas Administrative Regulations are very similar and state that, "No compensation shall be paid student teachers performing assignments under contracts . . ."²²²

Kentucky²²³ and Virginia²²⁴ do not allow student teachers to receive financial compensation as the Attorney General in each state has ruled that this practice is prohibited. The largest teacher producing institution in Connecticut states that "in no case are student teachers to be paid."²²⁵ (See Table 12)

4b) May undergraduate aides receive financial compensation from the school district during their clinical experience?

²²⁰ District of Columbia Code, § 31-802.

²²¹ Missouri Student Teacher Certification, Form TC-2, Regulation 5.

²²² 91-19-7.

²²³ A.G.O., 63-269, April 2, 1963

²²⁴ Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., January 13, 1976.

²²⁵ "Student Teaching," (New Haven: Southern Connecticut State College), p. 15.

Table 12

Status of Student Teachers Regarding the Question of Whether a Student Teacher May Receive Financial Compensation: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, Attorneys General Opinions, and Teacher Training Institution Rules and Regulations for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
Alabama						X
Alaska						X
Arizona						X
Arkansas						X
California (see text)						
Colorado	Yes					X
Connecticut						X
Delaware						X
District of Columbia	No					
Florida					Yes	
Georgia						X
Hawaii						X
Idaho						X
Illinois						X

Table 12--Continued

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
Indiana						X
Iowa						X
Kansas						
Kentucky						
Louisiana						X
Maine						
Maryland						X
Massachusetts						X
Michigan						X
Minnesota						
Mississippi						X
Missouri						
Montana						X
Nebraska						X
Nevada						X
New Hampshire						X
New Jersey						X
New Mexico						X
New York						X
North Carolina						X

Table 12--Continued

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
North Dakota						X
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island						X
South Carolina						X
South Dakota						X
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin			Yes			
Wyoming						X

Only four states authorize undergraduate aides to receive financial compensation. These states are: Colorado, Wisconsin, California, and Florida.

Colorado law allows financial compensation to "students of teaching,"²²⁶ while Wisconsin allows payment "to a person working in an internship program."²²⁷ The California statute which might allow financial compensation to student teachers in that state also applies to undergraduate aides.²²⁸ A paid internship is permitted from the largest state teacher producing college/university in Florida.²²⁹

In the public schools of the District of Columbia, undergraduate aides could not receive financial compensation as only "free and voluntary" services are authorized.²³⁰

No evidence could be found addressing this question in the remaining 46 states. (See Table 13)

4c) May graduate interns receive financial compensation from the school district during their clinical experience?

On the basis of the research conducted it would appear that six states would allow payments to graduate interns while the remaining states make no mention of whether or not graduate interns may receive financial compensation during their clinical experience.

²²⁶C.R.S., § 22-62-104.

²²⁷Wisconsin Administrative Code, P1 3.01(2)(g).

²²⁸California Education Code, § 13162.

²²⁹University of South Florida, "Guidelines."

²³⁰District of Columbia Code, § 31-802.

Table 13

Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide May Receive Financial Compensation: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, Attorneys General Opinions and Teacher Training Institution Rules and Regulations for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
Alabama						X
Alaska						X
Arizona						X
Arkansas						X
California (see text)						
Colorado	Yes					
Connecticut						X
Delaware						X
District of Columbia	No					
Florida					Yes	
Georgia						X
Hawaii						X
Idaho						X
Illinois						X

Table 13--Continued

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
Indiana						X
Iowa						X
Kansas						X
Kentucky						X
Louisiana						X
Maine						X
Maryland						X
Massachusetts						X
Michigan						X
Minnesota						X
Mississippi						X
Missouri						X
Montana						X
Nebraska						X
Nevada						X
New Hampshire						X
New Jersey						X
New Mexico						X
New York						X
North Carolina						X

Table 13--Continued

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
North Dakota						X
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island						X
South Carolina						X
South Dakota						X
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin			Yes			
Wyoming						X

In Colorado, Wisconsin, California, and Florida the legal guidelines which permit undergraduate aides to receive financial compensation, as discussed in the previous section, would also allow graduate interns financial compensation.

The same logic that would not permit student teachers and undergraduate aides to be paid in the District of Columbia also prevents graduate interns from being paid.

Illinois does not address the question of student teachers and undergraduate aides being paid but does address the question in terms of graduate interns. The statute provides:

School Boards may also employ students holding a bachelor's degree from a recognized institution of higher learning as part time teaching interns when such students are enrolled in a college or university internship program, which has prior approval by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board, leading to a masters degree.²³¹

No evidence indicates whether or not student teachers or undergraduate aides may receive financial compensation in New Hampshire; however, graduate interns receive financial compensation in a year long clinical internship from the largest teacher producing institution in the state.²³² (See Table 14)

5a) Are student teachers eligible for workmen's compensation while engaged in their clinical experience?

The question of whether or not student teachers are eligible for workmen's compensation is an extremely complex situation often

²³¹ Illinois Revised Statutes, § 10-2234.

²³² "University of New Hampshire Intern Program," p. 4.

Table 14

Status of Graduate Interns Regarding the Question of Whether a Graduate Intern May Receive Financial Compensation: A Summary of Legislation, Court Decisions, State Department Rules and Regulations, Superintendent Interpretations, Attorneys General Opinions, and Teacher Training Institutions Rules and Regulations for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
Alabama						X
Alaska						X
Arizona						X
Arkansas						X
California	Yes (see text)					
Colorado	Yes					
Connecticut						X
Delaware						X
District of Columbia	No					
Florida					Yes	
Georgia						X
Hawaii						X
Idaho						X
Illinois	Yes					

Table 14--Continued

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
Indiana						X
Iowa						X
Kansas						X
Kentucky						X
Louisiana						X
Maine						X
Maryland						X
Massachusetts						X
Michigan						X
Minnesota						X
Mississippi						X
Missouri						X
Montana						X
Nebraska						X
Nevada						X
New Hampshire					Yes	
New Jersey						X
New Mexico						X
New York						X
North Carolina						X

Table 14--Continued

State	Legis- lation	Court Decision	State Dept. of Education rule/regulation	State Supt. Inter- pretation or Attorneys General Opinions	Teacher train- ing institution rule/regulation	No evidence found address- ing question
North Dakota						X
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island						X
South Carolina						X
South Dakota						X
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin			Yes			
Wyoming						X

giving rise to a variety of questions. Statutes in a few states speak directly to the issue of whether or not a student teacher is eligible for benefits. Generally, workmen's compensation is considered to be a benefit to a person arising out of an accidental injury in the course of that person's employment. The term "employee" is important and may be defined in various ways. Andrew Miller, former Attorney General for the Commonwealth of Virginia, discusses this problem as follows:

The definition of the term employee is frequently delineated by statute and may vary in scope with the purposes of the legislation. For instance, the definition of an employee for tax purposes may be quite different than in the application of the wage and hour or the workmen's compensation laws. At common law, an employee was a "servant," and there was no requirement that the employee receive compensation, only that he be subject to the employer's direction. Still, in modern practice the element of compensation has become so customary as to make it difficult not to regard it as an essential element of the employment relationship.²³³

It should also be noted that while a student teacher might file a claim in any state; however, collecting benefits is an entirely different matter. The interpretations and factual situation, as well as the nature of the state workmen's compensation laws, are extremely important for any given claim.

California, Colorado, Maryland, Minnesota, and Nevada statutes declare that student teachers are eligible for benefits. Under California law, student teachers are certified employees of the local

²³³ Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., January 13, 1976.

board²³⁴ and local board employees are covered under California workmen's compensation insurance laws.²³⁵ According to Thomas M. Griffin, Chief Counsel, California Department of Education, the amount is complicated as generally there is no wage loss upon which to base financial compensation.²³⁶

Colorado²³⁷ and Wyoming²³⁸ statutes state that the student of teaching is entitled to the same workmen's compensation benefits as that of a regular school district employee. The Maryland statute says that student teachers are covered by workmen's compensation and that "benefits . . . shall be determined in such a way as not to exceed the salary of a first year teacher in the school system."²³⁹ Minnesota provides workmen's compensation coverage to "practice or student teachers."²⁴⁰ Nevada extends workmen's compensation coverage for university students engaged in "teaching laboratory experiences."²⁴¹

²³⁴ California Education Code, § 13159.

²³⁵ California Education Code, § 857.

²³⁶ Telephone interview, June 14, 1976.

²³⁷ C.R.S., § 22-62-105.(2). See also Denver Public Schools v. DeAvila, 544 P.2d 627 (1976).

²³⁸ Wyoming Statute, § 21-512(b).

²³⁹ Maryland School Law, § 112B.

²⁴⁰ Minnesota Statutes, § 123.35, Subd. 13.

²⁴¹ N.R.S., § 391.095.

Student teachers in Louisiana possibly could be covered by the state's workmen's compensation laws. In Maurice v. Orleans Parish School Board²⁴² a substitute teacher acting as an uncompensated volunteer was injured, sued, and won workmen's compensation benefits. In that context it is noted that public school teachers in Louisiana are afforded workmen's compensation pursuant to the following statute:

The provisions of this Chapter shall apply to every person in the service of the state or political subdivision thereof, of any incorporated public board or commission authorized to hold property and to sue and be sued, under any appointment or contract of hire, express or implied, oral or written, . . .
LSA-R.S. 23:1034.²⁴³

The court in Maurice reasoned that under Louisiana law one "who renders service in any trade, business or occupation is presumed to be an employee of the person for whom he renders such services."²⁴⁴ Under similar reasoning by a Louisiana court, a student teacher in rendering services might be entitled to compensation. The Wisconsin Attorney General has indicated that student teachers "might be considered employees or agents of the local school district because of the apparent employer-employee relationship between supervisor and supervisee for purposes of the Workmen's Compensation Law."²⁴⁵

²⁴² La. App. 295 So. 2d 184. (1974).

²⁴³ Maurice, p. 185.

²⁴⁴ Maurice, p. 185, citing Stovall v. Solomon, La. App., 94 So.2d 551 (1957); Stull v. Russo, La. App., 85 So.2d 112 (1956).

²⁴⁵ "The Wisconsin Improvement Program and the Teacher Internship, Guidelines 1976-1977," (Madison: The University of Wisconsin), p. 38.

The results of the research were contradictory for student teachers being covered by workmen's compensation in Idaho. The Deputy State Superintendent, Jerry Evans, said that student teachers are ". . . covered in workmen's compensation as other teachers."²⁴⁶ However, the research failed to show any mention, specific or implied, supporting this statement in Idaho.

Regarding whether or not student teachers are eligible for workmen's compensation in the District of Columbia, George H. Mar-golies, Legal Counsel to the Superintendent, writes:

Our employees are covered by the Federal Employees' Compensation Act (Title 5, United States Code, Sections 8101 et.seq.). That law defines "employee" as encompassing those who rendered personal services similar to that of any employee, but without pay, when a statute authorizes acceptance of use of such service. Given the provision of the D.C. Code [Title 31, Section 802], it is arguable that student teachers would be covered by the provisions of the F.E.C.A.²⁴⁷

New Jersey and Virginia hold negative views in regard to student teachers collecting workmen's compensation. It is the interpretation of the Department of Education of New Jersey that student teachers ". . . would not be entitled to workmen's compensation."²⁴⁸ Based on the logic of the opinion of Virginia's former Attorney General, Andrew Miller regarding compensation as being necessary for

²⁴⁶ Telephone interview, June 14, 1976.

²⁴⁷ Personal correspondence with the writer, October 15, 1976.

²⁴⁸ Based on personal correspondence between Fred A. Price, Bureau of Teacher Education and Academic Credentials, and the writer, August 31, 1976.

any employment relationship,²⁴⁹ it would appear difficult for a student teacher to receive benefits in the Commonwealth of Virginia.

There is no specific evidence in North Carolina to show that a student teacher is eligible for workmen's compensation. However, a student teacher might be able to make a strong claim as student teachers "under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher."²⁵⁰ While the intent of the legislature is not clear, the North Carolina Worker's Compensation statute covers the following: "All persons under any appointment or contract of hire or apprenticeship, express or implied, oral or written, are covered. This includes public school employees." It might be argued that the student teacher should be considered an apprentice and, therefore, would be eligible for such compensation.

The following eleven states indicate in various ways that the student teacher has the same legal protection or status of that of a regular certificated teacher:

²⁴⁹ Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., January 13, 1976.

²⁵⁰ North Carolina General Statutes, § 115-160.6.

Arkansas ²⁵¹	Mississippi ²⁵⁵	Oklahoma ²⁵⁹
Florida ²⁵²	Montana ²⁵⁶	Tennessee ²⁶⁰
Hawaii ²⁵³	Nebraska ²⁵⁷	Utah ²⁶¹
Kentucky ²⁵⁴	North Dakota ²⁵⁸	

Although some form of legal protection is provided the student teacher in these eleven states the intent of the legislature is unclear in regard to workmen's compensation benefits. The absence of clear statements as to whether or not this legal protection/status includes workmen's compensation remains unanswered.

In the remaining 28 states the research showed no evidence as to whether or not student teachers are eligible for workmen's compensation benefits. It is important to note that the absence of any statement concerning the topic does not preclude a student

²⁵¹ Arkansas Statutes, § 80-1262.

²⁵² Florida Statutes, § 228.041(a)

²⁵³ Hawaii Revised Statutes, § 662-1.

²⁵⁴ K.R.S., § 161.042(3).

²⁵⁵ Mississippi Code, § 37-132-5.

²⁵⁶ Montana Revised Code, § 75-6001.

²⁵⁷ Revised Statutes of Nebraska, § 79-1298.

²⁵⁸ N.D.C.C., § 15-47-42.

²⁵⁹ Oklahoma Statutes, § 1-16-5.

²⁶⁰ Tennessee Code, § 49-1301.

²⁶¹ Utah Code, Annotated, § 53-2-15.

teacher's filing and, depending on the factual situation, and the nature of the workmen's compensation laws of a state the student teacher may or may not collect benefits. (See Table 15)

5b) Are undergraduate aides eligible for workmen's compensation while engaged in their clinical experience?

Colorado²⁶² and Wyoming²⁶³ say that "students of teaching" are eligible for workmen's compensation. It would seem reasonable to assume that undergraduate aides would be within this term and, therefore, they would be eligible for benefits.

The Maryland statute authorizes workmen's compensation benefits to both "student teachers and student interns,"²⁶⁴ and it would seem reasonable to assume that undergraduate aides in Maryland could be included in the "student intern" classification; consequently, undergraduate aides would be eligible for benefits.

Nevada authorizes workmen's compensation benefits to university students assigned to the public schools for purposes of student teaching, counseling, library teaching "or for teaching laboratory experiences."²⁶⁵ Undergraduate aides might be considered in a "teaching laboratory experience" and, therefore, qualify for such benefits, depending upon the circumstances of the injury.

²⁶² C.R.S., § 22-62-105(2).

²⁶³ Wyoming Statutes, § 21-512(G).

²⁶⁴ Maryland School Law, § 112.B.

²⁶⁵ N.R.S., § 391.095.

Table 15

**Status of Student Teachers Regarding the Question of Whether a
Student Teacher is Eligible for Workmen's Compensation: A
Summary of Legislation, Court Decisions, State Department
Interpretations, Superintendent Interpretations, Attorneys
General Opinions, Teacher Training Institution Inter-
pretations and where the Student Teacher has Legal
Protection in the United States and the District
of Columbia for the 1976 - 1977 School Year**

Table 15--(Continued)

State	Legis- lation	Court Decision	State Dept. Interpretation	State Supt. Interpretation		Teacher train- ing institution Opinion	Grad. intern has legal protection	No evidence found address- ing question
				Attorney General	Opinion			
Utah							X	
Vermont								X
Virginia								X
Washington								X
West Virginia			No (see text)					
Wisconsin				Yes				
Wyoming		Yes						

In Louisiana undergraduate aides could possibly make a strong argument for eligibility based on Maurice v. Orleans Parish School²⁶⁶ as discussed in the previous section.

An unofficial opinion of the Wisconsin Attorney General indicates that undergraduate aides may be eligible for benefits in that he used the term "intern" in reference to "apparent employer-employee relationship between supervisor and supervisee . . ."²⁶⁷

Given the logic of the Legal Counsel to the Superintendent of the Public Schools of the District of Columbia, as cited in the previous section, undergraduate aides may also have a strong argument that they are covered under the provisions of the Federal Employees' Compensation Act.

Hawaii,²⁶⁸ Mississippi,²⁶⁹ and Nebraska²⁷⁰ statutes provide the same legal protection to the undergraduate aide as that of the regular certified teacher. As with student teachers in these states, the intent of the legislature is unclear as to whether or not these individuals are eligible for workmen's compensation.

The remaining 41 states are silent as to whether or not undergraduate aides are eligible for workmen's compensation benefits. As

²⁶⁶La. App. 295 So.2d 184. (1974).

²⁶⁷"The Wisconsin Improvement Program and the Teacher Internship," p. 38.

²⁶⁸Hawaii Revised Statutes, § 662-1.

²⁶⁹Mississippi Code, § 37-132-5.

²⁷⁰Revised Statutes of Nebraska, § 79-1298.

stated before in the question concerning student teachers, an undergraduate intern could file a claim and possibly be compensated depending upon the facts and circumstances involved. (See Table 16)

5c) Are graduate interns eligible for workmen's compensation while engaged in their clinical experience?

Since Colorado²⁷¹ and Wyoming²⁷² law authorize workmen's compensation benefits for "students of teaching," graduate interns would seem to be eligible for benefits as they would be included in the term.

Maryland uses the term "student intern" in authorizing those eligible for workmen's compensation benefits, and indicates that the benefits may not "exceed the salary of a first year teacher in the school system."²⁷³

Graduate interns would seem to be eligible for workmen's compensation benefits in Nevada as they are university students and are engaged in "teaching laboratory experiences"²⁷⁴ in the public schools.

As with student teachers and undergraduate aides; graduate interns in Louisiana could possibly argue that they are eligible for workmen's compensation benefits due to Maurice v. Orleans Parish School.

²⁷¹C.R.S., § 22-62-105(2).

²⁷²Wyoming Statutes, § 21-512(G).

²⁷³Maryland School Law, § 112B.

²⁷⁴N.R.S., § 391.095.

Table 16

Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide is Eligible for Workmen's Compensation: A Summary of Legislation, Court Decisions, State Department Interpretations, Superintendent Interpretations, Attorneys General Opinions, Teacher Training Institution Interpretations, and Where the Undergraduate Aide has Legal Protection in the United States and the District of Columbia for the 1976 - 1977 School Year

Table 16--(Continued)

State	Legis-	Court	State Dept.	State Supt. Interpretation		Teacher train-	Undergrad. aide	No evidence found address-
	lation	Decision	Interpretation	Attorney General	Opinion	ing institution Interpretation	has legal protection	ing question
South Dakota								X
Tennessee								X
Texas								X
Utah								X
Vermont								X
Virginia								X
Washington								X
West Virginia								X
Wisconsin								
Wyoming				Yes (see text)				

In the District of Columbia graduate interns could present a strong argument that they are covered under the provisions of the Federal Employees' Compensation Act, given the logic of the Legal Counsel to the Superintendent mentioned previously concerning student teachers.

If one follows the view of the Attorney General in Wisconsin, graduate interns might be eligible for workmen's compensation benefits. If student teachers are eligible due to the "apparent employer-employee relationship between supervisor and supervisee . . ."²⁷⁵ then it would seem reasonable to say this same relationship exists for the graduate intern and his immediate supervisor.

As with undergraduate aides, graduate interns are afforded the same legal protection as that of the regular certified teacher. Again, the intent of the legislature remains unclear to possible workmen's compensation benefits.

The remaining 41 states are silent as to whether or not graduate interns are eligible for workmen's compensation benefits. However, as stated previously with student teachers and undergraduate interns, a graduate intern is not precluded from filing a claim where the laws are silent to this issue. (See Table 17)

6a) What due process guidelines are afforded student teachers if they are dismissed from their clinical experience?

²⁷⁵"The Wisconsin Improvement Program and the Teacher Internship," p. 38.

Table 17

Status of Graduate Interns Regarding the Question of Whether A Graduate Intern is Eligible for Workmen's Compensation: A Summary of Legislation, Court Decisions, State Department Interpretations, Superintendent Interpretations, Attorneys General Opinions, Teacher Training Institutions Interpretations, and Where the Graduate Intern has Legal Protection in the United States and the District of Columbia for the 1976 - 1977 School Year

Table 17--(Continued)

State	Legis-	Court	State Dept.	State Supt. Interpretation		Teacher train- ing institution interpretation	Student teacher has legal protection	No evidence found address- ing question
	lation	Decision		Attorney General	Opinion			
South Carolina							X	
South Dakota							X	
Tennessee							X	
Texas							X	
Utah							X	
Vermont								X
Virginia							X	
Washington							X	
West Virginia							X	
Wisconsin							X	
Wyoming	Yes (see text)							

Every citizen is entitled to due process pursuant to the Fifth and Fourteenth Amendments to the Constitution. The Fifth Amendment says in part: ". . . nor shall any person be . . . deprived of life, liberty, or property, without due process of law;"²⁷⁶

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

. . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;²⁷⁷

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

An Arizona court described substantive due process as follows:

The phrase "due process of law," when applied to substantive rights, as distinguished from procedural rights, means that the state is without power to deprive a person of life, liberty or property by an act having no reasonable relation to any proper governmental purpose, or which is so far beyond the necessity of case as to be an arbitrary exercise of governmental power.²⁷⁸

Substantive due process deals with liberty and property rights of individuals and under what circumstances these rights may be limited.²⁷⁹

²⁷⁶U.S. Const. Amend. V.

²⁷⁷U.S. Const. Amend. XIV, sec. 1.

²⁷⁸Valley Nat. Bank of Phoenix v. Glover, 62 Ariz. 538, 159 P.2d 292 (1945).

²⁷⁹See James v. West Virginia Board of Regents, 322 F.Supp. 217 (1971), and Lai v. Board of Trustees of East Carolina University, 330 F.Supp. 904, (1971), for due process rights in denying student access to student teach.

At least one United States District Court has ruled that when state statute gives the same protection of the laws to the student teacher as it does to the regular certified teacher, then the student teacher has all the liberty and property rights of a regular certified teacher.²⁸⁰

This corresponds to the Supreme Court decision in Board of Regents v. Roth where the Court implied that property interests are not found in the Constitution but in state statutes or contracts.

The Court also stated that the individual has Fourteenth Amendment protection of liberty, which along with property, cannot be withdrawn without procedural due process. When circumstances surrounding the individual's position vest that individual with substantive constitutional rights that are of a liberty or property nature, then the school board cannot withdraw these rights without extending procedural due process. The Court further stated:

The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property. When protected interests are implicated, the right to some kind of a prior hearing is paramount. But the range of interests protected by procedural due process is not infinite.²⁸¹

The question that school administrators should be concerned with is whether or not a student teacher is dismissed without fundamental fairness. In Moore v. Gaston County Board of Education, the court said that the student teacher "had the right not to be relieved

²⁸⁰ See Moore v. Gaston County Board of Education, 357 F.Supp. 1037 (1975).

²⁸¹ Board of Regents v. Roth, 408 U.S. 564 (1972).

of his teaching opportunity for unconstitutional reasons, and he had the right to a fair hearing under due process safeguards, before being discharged."²⁸²

Concerning what specific due process procedure must be used, the United States Supreme Court said:

. . . it has been said so often by this Court and others as not to require citation of authority that due process is flexible and calls for such procedural protections as the particular situation demands. "Consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the government function involved as well as of the private interest that has been affected by governmental action. . . ."²⁸³

It would seem reasonable that if a student teacher were dismissed from his/her clinical experience, minimal procedural due process guidelines should be followed, if for no other reason than simply fundamental fairness. These minimal procedural due process guidelines are as follows:

- 1) The individual must be given proper notice that he/she may be deprived of his/her clinical experience.
- 2) The individual must be given an opportunity to be heard in a hearing.
- 3) The hearing must be conducted fairly.²⁸⁴

²⁸² Moore

²⁸³ Morrissey v. Brewer, 408 U.S. 471 (1972).

²⁸⁴ See Kern Alexander, Ray Corns and Walter McCann, Public School Law, (St. Paul: West Publishing Co., 1969), p. 539.

Generally local school board members may non-renew a certified probationary teacher's contract without affording that teacher due process, unless the local school board by action has interfered with liberty and property rights of the individual. The same would probably hold true for student teachers unless some liberty and property rights had been guaranteed by statute and interfered with by board action. In many cases it is customary for the teacher training institution to provide a hearing and perhaps place the student teacher in another setting. If this were the case, it would seem that there would be no loss of a possible property right and an informal hearing would satisfy the requirement of giving the individual due process.²⁸⁵ In many cases procedural due process is probably given to student teachers informally and no written guidelines will exist in many instances. With this limitation in mind, this section is intended to examine what written procedural due process guidelines are afforded student teachers while engaged in their clinical experience.

Colorado,²⁸⁶ Hawaii,²⁸⁷ North Dakota,²⁸⁸ and Utah²⁸⁹ law state or imply that the student teacher is an employee of the board

²⁸⁵ Goss v. Lopez, 419 U.S. 565 (1975).

²⁸⁶ C.R.S., § 22-62-105(1)

²⁸⁷ Hawaii Revised Statutes, § 662-1(2).

²⁸⁸ N.D.C.C., § 15-47-42.

²⁸⁹ Utah Code, Annotated, § 53-2-15.

of education. These state statutes do not limit the term "employee." Therefore, student teachers may receive the same due process as that of a regular certified teacher by the school board. The research revealed no written procedural due process guidelines in these four states if a student teacher is dismissed from the clinical experience.

Only one court has specifically answered the question of what due process guidelines are due to the student teacher if he/she is dismissed from the clinical experience. This question was answered in Moore v. Gaston County Board of Education²⁹⁰ when a discharged student teacher sued the school system. Moore was relieved of his student teaching duties without due process. Under North Carolina law it is provided that: "A student teacher under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher."²⁹¹

The court said:

Plaintiff was entitled under North Carolina General Statutes § 115-160.6 (cited above) to the same "protection of the laws" as a certified teacher. The University and the Gaston school authorities had duly agreed that he have a term of practice teaching at the school in question. He had the reasonable expectation that this opportunity for practice teaching would continue until the end of the fall term as required by his University curriculum. The fact that he was not being paid is neither material nor controlling. Even if he had no right to compensation nor to permanent tenure he nevertheless had the right not to be relieved of his teaching opportunity for unconstitutional reasons, and he had the right to a fair hearing under due process safeguards, before being discharged.²⁹²

²⁹⁰ 357 F. Supp. 1037.

²⁹¹ North Carolina General Statutes, § 115-160.6.

²⁹² Moore, p. 1041.

Seven other states have similar language as that of the North Carolina statute. These states and their statutory language are as follows:

The Arkansas statute provides "Student teachers in the public schools shall, while engaged in the performance of their student teaching duties, enjoy the same immunities provided by law for teachers in the public schools."²⁹³

The Florida statute provides:

A student who is enrolled in an institution of higher education approved by the state board for teacher training and who is jointly assigned by such institution of higher education and a school board to perform practice teaching under the direction of a regularly employed and certificated teacher shall be accorded the same protection of the laws as that accorded the certificated teacher while serving such supervised internship.²⁹⁴

The Kentucky statute provides:

A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district but shall be subject to the direction and supervision of the professional administrative and teaching staff of the school district.²⁹⁵

The Mississippi statute provides:

A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator, . . .²⁹⁶

²⁹³ Arkansas Statutes, § 80-1262.

²⁹⁴ Florida Statutes, § 228.041(9).

²⁹⁵ K.R.S., § 161.042(3).

²⁹⁶ Mississippi Code, § 37-132-5.

The Montana statute provides:

A student teacher, while serving such nonsalaried internship under the supervision of a certificated teacher, shall be accorded the same protection of the laws as that accorded a certificated teacher,²⁹⁷

The Oklahoma statute provides:

A student teacher, while serving a nonsalaried internship under the supervision of a certified teacher, shall be accorded the same protection of the laws as that accorded the certified teacher.²⁹⁸

The Tennessee statute provides:

A student teacher, while serving a nonsalaried internship under the supervision of a certificated teacher, shall be accorded the same protection of the laws as that accorded a certificated teacher.²⁹⁹

In the above seven states, if a similar factual situation presented itself in a case such as Moore v. Gaston County Board of Education, a court might look toward this particular case as precedent and say that student teachers should be afforded the same due process if dismissed from their clinical experience as a regular certified teacher would ordinarily receive.

Teacher education institutions which place student teachers in the public schools of the District of Columbia enter into written agreement with the District of Columbia Public School Office of Staff Development. Due process guidelines for dismissal from the clinical experience are reflected in the following passage.

²⁹⁷Montana Revised Code, § 75-6001.

²⁹⁸Oklahoma Statutes, § 1-16-5.

²⁹⁹Tennessee Code, § 49-1301.

The supervisor will immediately confer with the principal whenever, in his judgment, a problem appears to be developing for a student teacher. The principal will likewise immediately notify the supervisor whenever he or the cooperating teacher believes that a problem is apt to develop with a student teacher. Both the supervisor and the principal will be expected to inform the OSD about such concerns, particularly when change in assignment is appropriate. A change can be made by OSD after supervisors, cooperating teachers, principals and student teacher have met and discussed the problem and reached a decision on what should be done. Any subsequent change in assignment will be made by the OSD in cooperation with the respective teacher education institution.

Whenever a student teacher's assignment is apt to be terminated prior to the completion of the student teaching period, the supervisor, the principal, and the cooperating teacher will confer to determine the most appropriate course of action. If termination of the assignment is recommended by principal, cooperating teacher, and supervisor, the supervisor will be responsible for explaining the reasons for such action to the student teacher. He will also be responsible for submitting a written report summarizing the conference to the OSD.³⁰⁰

The largest teacher education institutions in California, Iowa, Indiana, and Rhode Island all provide written due process guidelines for the student teacher dismissed from his/her clinical experience. The University of California at Los Angeles suggests the following procedure to the cooperating teacher:

Because actual classroom experience is the most valid screening device for prospective teachers, it is difficult for a teacher education institution to eliminate teacher candidates prior to their student teaching assignment. Therefore, one of the major responsibilities of the supervising teacher, working in cooperation with the coordinator and principal, is to advise student teachers whose performance does not meet standards to withdraw from the program.

Problems concerning inadequacies should be discussed with the student teacher and the representative of the teacher education institution as soon as they are detected. A special effort should

³⁰⁰"Memorandum of Understanding for the District of Columbia Public Schools and Universities," VII. B. 1 and 2.

be made to help the student teacher recognize his or her own weaknesses and find solutions. If the performance is so poor that the instruction of pupils is jeopardized, refusal to permit the student teacher to continue training at the school may be justified. A recommendation to remove a student teacher should be based upon the results of a conference involving the supervising teacher, the university or college coordinator, and the student teacher by the principal.

Supervising teachers, principals, and coordinators should make every effort to help a student teacher succeed; however, the removal of a candidate should not be regarded as a personal failure of individual staff members.³⁰¹

The University of Northern Iowa states:

The clinical professor may, at any time, terminate or change the assignment of any associate teacher [student teacher]. Prior to doing so, the clinical professor shall give notice and shall make reasonable efforts before such time to consult with all parties concerned regarding the reasons for termination or change in assignment.³⁰²

Indiana University's agreement with the public school district says:

Either the School Corporation or the Institution may, at any time, change or terminate the assignment of any Student Teacher, or the assignment of particular Student Participants. Before doing so, each party shall give the other party notice and shall make reasonable efforts before such time to consult with the other party. It is the intention of this agreement that the parties be free to terminate any assignment, at any time, but that they work cooperatively through their designated representatives to make the experience of Student Teachers and Student Participants as valuable as possible to them, consistent with the responsibilities of the School Corporation to its pupils and patrons and the responsibility of the University to its Student Teachers and Participants.³⁰³

³⁰¹ "Teacher Education Guidelines, for Elementary and Secondary Schools," (Los Angeles: Los Angeles Unified School District), p. 25.

³⁰² "Handbook," p. 60.

³⁰³ "Agreement Concerning Placement of Student Teachers and Other Participants," (Bloomington: Indiana University), p. 2.

The student teacher handbook from Rhode Island College says:

If the cooperating teacher and/or College supervisor believe that a student teacher should withdraw, the Coordinator of Student Teaching should be notified immediately. While eager to give student teachers careful guidance and every possible opportunity to complete their programs creditably, the College reserves the right to remove them temporarily or permanently. If a student is permanently removed from student teaching, he may not continue in Educational Studies but may enroll in a non-education curriculum.

Helping a student to develop into a competent teacher is such a complex process that a cooperating teacher should not be unduly distressed when a student teacher is withdrawn or transferred. The many individual differences in persons and in situations, and the requirements of the teaching profession make it impossible to prevent all failures.³⁰⁴

The handbook for student teachers from the University of Nevada at Las Vegas (for Clark County) says:

When, in the opinion of the supervising teacher, the building administrator, and the University supervisor, the continuance of the student teacher is not in the best interest of the children, the student teacher shall be removed immediately.

A written report specifying in detail the reasons for removal shall be filed with Professional Growth Services and the Director of Certificated Personnel on or before the day the dismissal is effective. Professional Growth Services shall notify the co-operating university by the most expeditious means and, where desired by the student teacher, shall arrange for a review board consisting of one representative from Professional Growth Services, one representative from the cooperating university, and the appropriate assistant superintendent (elementary or secondary education). Should the review board, after examining the report and interviewing the affected party, feel that the student teacher should continue, the student teacher may be recommended for assignment in another school on a probationary basis.³⁰⁵

The University of Texas at Austin student teaching handbook contains the following passage:

³⁰⁴"Student Teaching in the Elementary School, A Handbook," (Providence: Rhode Island College), p. 15.

³⁰⁵"Student Teaching Handbook," (Las Vegas: University of Nevada), pp. 36-37.

It is important for you to recognize that you are a GUEST in the school, and as such, you have few legal rights. Any administrator or teacher who has responsibility for the classroom in which you are assigned may terminate your assignment in that classroom at any time and for any reason. They need not show cause or allow for a review.³⁰⁶

In 32 states no evidence was found addressing the question of written due process guidelines if a student teacher is dismissed from his/her clinical experience. As noted previously, the research was focused on written procedural guidelines, therefore, unwritten, less formal procedures were not addressed. (See Table 18)

6b) What due process guidelines are afforded undergraduate aides if they are dismissed from their clinical experience?

Student teachers may or may not possess a property right in their clinical experience. The clinical experience is required by law for certification and deprivation of this may cause a loss to the student teacher involved. On the other hand, serving as an undergraduate aide is a less formal procedure, usually not required by law, and not necessary for certification. Therefore, it would stand to reason that the undergraduate aide possesses even less, if any, property rights than the student teacher.

Four states afford the same protection of the laws to the undergraduate aide as that of the regular certified teacher. Colorado law gives this protection to "any student of teaching" as they are

³⁰⁶E. J. Montague, "Handbook for Student Teachers," The University of Texas at Austin (Austin: University of Texas), p. 1.

Table 18

Status of Student Teachers Regarding the Question of What Due Process Guidelines are Afforded a Student Teacher: A Summary of Possible Due Process as Employees, Court Decisions, Possible Due Process Based on Statutory Language, and Written Due Process Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher education inst.	No evidence found addressing question
Alabama					X	
Alaska					X	
Arizona					X	
Arkansas			X			
California					X	
Colorado	X					
Connecticut					X	
Delaware					X	
District of Columbia				X		
Florida			X			
Georgia					X	
Hawaii	X					
Idaho					X	
Illinois					X	

Table 18--Continued

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher	No evidence found addressing question
Indiana				X		
Iowa					X	
Kansas						X
Kentucky			X			
Louisiana						X
Maine						X
Maryland						X
Massachusetts						X
Michigan						X
Minnesota						X
Mississippi			X			
Missouri						X
Montana			X			
Nebraska						X
Nevada					X	
New Hampshire						X
New Jersey						X
New Mexico						X
New York						X
North Carolina		X				

Table 18--Continued

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher	No evidence found addressing question
North Dakota	X					
Ohio					X	
Oklahoma			X			
Oregon						X
Pennsylvania						X
Rhode Island					X	
South Carolina						X
South Dakota						X
Tennessee			X			
Texas					X	
Utah	X					
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin						X
Wyoming						X

considered employees;³⁰⁷ Florida law extends their protection to "A student who is enrolled in an institution of higher education";³⁰⁸ Hawaii would consider them "Agents" under the State Tort Liability Act;³⁰⁹ Mississippi law gives "interns" the same protection.³¹⁰ While the intent of each state's legislature is not clear and the intent may vary among the states, it would seem that public school systems should afford the undergraduate aide at least minimal due process based upon the wording of the various state statutes and Moore v. Gaston County as previously mentioned.

As previously discussed in section 6a the largest teacher education institution in Indiana gives written due process guidelines for "Student Participants."³¹¹

The research failed to reveal any other information relating to undergraduate aides being afforded written due process guidelines. Since undergraduate aide programs generally are not as formal as student teaching programs, it is acknowledged by the writer that there may be less formal guidelines in such programs. (See Table 19)

6c) What due process guidelines are afforded graduate interns if they are dismissed from their clinical experience?

³⁰⁷ C.R.S., § 22-62-105(2).

³⁰⁸ Florida Statutes, § 228.041(9).

³⁰⁹ Hawaii Revised Statutes, § 662-1(2).

³¹⁰ Mississippi Code, § 37-132-5.

³¹¹ "Agreement," Indiana University, p. 2.

Table 19

Status of Undergraduate Aides Regarding the Question of What Due Process Guidelines are Afforded an Undergraduate Aide: A Summary of Possible Due Process Guidelines as Employees, Court Decisions, Possible Due Process Based on Statutory Language and Written Due Process Guidelines by Teacher Education Institutions for the United States and the District of Columbia
for the 1976 - 1977 School Year

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher education inst.	No evidence found addressing question
Alabama						X
Alaska						X
Arizona						X
Arkansas						X
California						X
Colorado		X				
Connecticut						X
Delaware						X
District of Columbia						X
Florida			X			
Georgia						X
Hawaii			X			
Idaho						X
Illinois						X

Table 19--Continued

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher education inst.	No evidence found addressing question
Indiana					X	
Iowa						X
Kansas						X
Kentucky						X
Louisiana						X
Maine						X
Maryland						X
Massachusetts						X
Michigan						X
Minnesota						X
Mississippi			X			X
Missouri						X
Montana						X
Nebraska						X
Nevada						X
New Hampshire						X
New Jersey						X
New Mexico						X
New York						X
North Carolina						X

Table 19--Continued

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher	No evidence found addressing education inst.
North Dakota						X
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island						X
South Carolina						X
South Dakota						X
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin						X
Wyoming						X

The question of possessing a property right as a graduate intern is very nebulous as usually such programs are very informal. Public school officials in many cases lack long standing policies since this is a relatively recent trend in most educational institutions. Employee status is given to "any student of teaching" in Colorado,³¹² "interns" in Mississippi,³¹³ "students enrolled in an institution of higher learning" in Florida,³¹⁴ and "agents" in Hawaii.³¹⁵ Therefore, they should receive the same due process as that afforded the regular certified teacher.

The eighth circuit court has ruled that graduate students, when dismissed from graduate school, must be given due process. The court reasoned that severance from graduate school is "a deprivation of liberty within the meaning and intent of the due-process clause of the Fourteenth Amendment."³¹⁶ The dismissal of a graduate intern from his/her clinical experience rather than graduate school would reasonably be considered less of a deprivation, and due process guidelines would perhaps be less, if any, in such an event.

The research failed to reveal any specific mention of graduate interns receiving due process. It should be understood that graduate

³¹² C.R.S., 22-62-105(2)

³¹³ Mississippi Code, 37-132-5.

³¹⁴ Florida Statutes, 228.041(g).

³¹⁵ Hawaii Revised Statutes, 662-1(2).

³¹⁶ Horowitz v. Board of Curators of the University of Missouri, 538 F 2d 1317 (1976).

interns must be afforded similar constitutional due process rights under the Fifth and Fourteenth Amendments as should be provided any citizen. (See Table 20)

7a) What guidelines exist for student teachers if a teacher strike or other work stoppage occurs, while engaged in their clinical experience.

The research focused on all states whether strikes/work stoppages were legal or not. This approach was based on the logic that guidelines might exist even if strikes/work stoppages were illegal as strikes/work stoppages have occurred in the past or may occur in the future despite what the law may say concerning the subject.

Only three states have any guidelines in regard to work stoppages. The student teacher handbook for the largest teacher producing institution in the state of Delaware says:

In case of a teacher strike in a local school district having student teachers it is the intent of the College of Education to provide for the welfare of the student teacher. The following policy approved by the College of Education and the Chief School Officers of the State of Delaware will be enforced:

1. Student teachers will not cross the teacher picket lines. The rationale for this is twofold:
 - a. The University of Delaware does not wish to jeopardize future student teacher placements in that district.
 - b. The University of Delaware does not want to create the risk of being labeled a "strike breaker."
2. If the strike is not settled within 5 teaching days, the University of Delaware will remove the student teachers and place them in another district for the duration of the semester. The rationale for this is twofold.

Table 20

Status of Graduate Interns Regarding the Question of What Due Process Guidelines Are Afforded a Graduate Intern: A Summary of Possible Due Process Guidelines as Employees, Court Decisions, Possible Due Process Based on Statutory Language and, Written Due Process Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher education inst.	No evidence found addressing question
Alabama						X
Alaska						X
Arizona						X
Arkansas						X
California						X
Colorado		X				
Connecticut						X
Delaware						X
District of Columbia						X
Florida			X			
Georgia						X
Hawaii			X			
Idaho						X
Illinois						X

Table 20--Continued

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher	Written due process guidelines by education inst.	No evidence found addressing question
Indiana							X
Iowa							X
Kansas							X
Kentucky							X
Louisiana							X
Maine							X
Maryland							X
Massachusetts							X
Michigan							X
Minnesota							X
Mississippi			X				
Missouri							X
Montana							X
Nebraska							X
Nevada							X
New Hampshire							X
New Jersey							X
New Mexico							X
New York							X
North Carolina							X

Table 20--Continued

State	Possible due process as employees	Court Decision	Possible due process based on statutory language	Written due process provided by Dept. of Education	Written due process guidelines by teacher	No evidence found addressing question
North Dakota						X
Ohio						X
Oklahoma						X
Oregon						X
Pennsylvania						X
Rhode Island						X
South Carolina						X
South Dakota						X
Tennessee						X
Texas						X
Utah						X
Vermont						X
Virginia						X
Washington						X
West Virginia						X
Wisconsin						X
Wyoming						X

- a. The University of Delaware has a contractual obligation to provide the student teacher with a full student teaching experience.
- b. All state certification regulations and university academic program requirements call for a full student teaching semester.

Due to variations in the student teaching experience provided in the art, physical education, home economics and child development teacher preparation programs it will be necessary to evaluate the conditions concerning removal of student teachers in these programs at the time of a strike.³¹⁷

The largest teacher producing institution in the state of Wisconsin has the following policy concerning student teachers and interns during a teacher strike:

When a work stoppage occurs in a cooperating school system where interns or student teachers are assigned, it is the policy of the Wisconsin Improvement Program and the School of Education that interns or student teachers be declared non-participants to either party involved. Interns and student teachers will remain on a standby basis, interns without pay, during the period of time when schools are closed or during the period of time when schools are declared open without resolve of conflicting issues between the Board of Education and the Local Teacher Association.

This policy is declared, not to favor one side or the other, but to realistically recognize the intern or student teacher's status as a temporary assignee to the school and a non-participant in the negotiation process, and to protect all parties in the clinical program from conflict and concern.³¹⁸

The largest teacher producing institution in the state of Iowa has the following policy concerning associates [i.e., student teachers]:

During the negotiation process the teacher bargaining unit may decide that members of the bargaining unit (teachers) will "work the rules," conduct sick-ins, or engage in other legal activities within the guidelines of the collective bargaining act.

³¹⁷"Student Teaching Guidelines" (Newark: University of Delaware), p. 4.

³¹⁸"Administrative Guidelines for Clinical Programs for Teacher Education at the University of Wisconsin--Madison" (Madison: The University of Wisconsin), p. 25.

Associates are not employees of the school system to which they are assigned. In the event of an impasse between the board of education and teachers during the negotiation process resulting in "work the rules" action or any other legal activity the associate shall:

1. Avoid personal involvement in the impasse activities.
2. Report to the clinical professor for instructions on a daily basis during the duration of the impasse.

The clinical professor shall, if classes are interrupted or the sponsor teacher is absent without a qualified substitute, excuse the associate on a day to day basis.

Any associates, who, on their own volition, actively become involved in activities associated with the negotiation process shall be withdrawn from the assignment. The decision to re-assign the associates shall be determined on an individual basis.

The associates may observe negotiations processes. This includes attending meetings in the cooperating center in order to understand roles of teachers administrators, and boards of education under formal legal professional negotiations.³¹⁹

The research failed to show any other mention of the role of student teachers during their clinical experience if a teacher strike/work stoppage occurs. (See Table 21)

7b) What guidelines exist for undergraduate aides if a teacher strike or other work stoppage occurs, while engaged in their clinical experience?

The largest teacher producing institution in the state of Wisconsin includes undergraduate aides in their definition of interns.³²⁰ The policy spoken to in the previous section is the only guideline which the research revealed. (See Table 22)

³¹⁹"Handbook," p. 58.

³²⁰"Administrative Guidelines."

Table 21

Status of Student Teachers Regarding the Question of What Guidelines Exist for a Student Teacher if a Teacher Strike or Other Work Stoppage Occurs: A Summary of Written Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Alabama		X
Alaska		X
Arizona		X
Arkansas		X
California		X
Colorado		X
Connecticut		X
Delaware	X	
District of Columbia		X
Florida		X
Georgia		X
Hawaii		X
Idaho		X
Illinois		X
Indiana		X
Iowa	X	
Kansas		X

Table 21--(Continued)

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Kentucky		X
Louisiana		X
Maine		X
Maryland		X
Massachusetts		X*
Michigan		X
Minnesota		X
Mississippi		X
Missouri		X
Montana		X
Nebraska		X
Nevada		X
New Hampshire		X
New Jersey		X
New Mexico		X
New York		X
North Carolina		X
North Dakota		X
Ohio		X
Oklahoma		X
Oregon		X

Table 21--(Continued)

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Pennsylvania		X
Rhode Island		X
South Carolina		X
South Dakota		X
Tennessee		X
Texas		X
Utah		X
Vermont		X
Virginia		X
Washington		X
West Virginia		X
Wisconsin	X	
Wyoming		X

* The Massachusetts Teacher Association has its own guidelines

Table 22

Status of Undergraduate Aides Regarding the Question of What Guidelines Exist for an Undergraduate Aide if a Teacher Strike or Other Work Stoppage Occurs: A Summary of Written Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Alabama		X
Alaska		X
Arizona		X
Arkansas		X
California		X
Colorado		X
Connecticut		X
Delaware		X
District of Columbia		X
Florida		X
Georgia		X
Hawaii		X
Idaho		X
Illinois		X
Indiana		X
Iowa		X
Kansas		X

Table 22--(Continued)

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Kentucky		X
Louisiana		X
Maine		X
Maryland		X
Massachusetts		X
Michigan		X
Minnesota		X
Mississippi		X
Missouri		X
Montana		X
Nebraska		X
Nevada		X
New Hampshire		X
New Jersey		X
New Mexico		X
New York		X
North Carolina		X
North Dakota		X
Ohio		X
Oklahoma		X
Oregon		X

Table 22--(Continued)

State	Written guidelines by teacher edu- cation institution	No evidence Found address- ing question
Pennsylvania		X
Rhode Island		X
South Carolina		X
South Dakota		X
Tennessee		X
Texas		X
Utah		X
Vermont		X
Virginia		X
Washington		X
West Virginia		X
Wisconsin	X	
Wyoming		X

7c) What guidelines exist for graduate interns if a teacher strike or other work stoppage occurs while they are engaged in their clinical experience?

Graduate interns are included in the term "intern" for the University of Wisconsin guidelines concerning teacher work stoppages as previously mentioned in section 7a.³²¹ The research failed to show any other definition of the role of graduate interns in the event of a teacher strike/work stoppage. (See Table 23)

Section 3 concerns internal relationships involving educational clinical experiences in the public schools.

8a) Does the student teacher have the authority to teach without constant, immediate and direct supervision?

Student teaching is designed to be a supervised clinical experience which will enable the student to gather the competencies and experience necessary for a beginning public school teacher. Every teacher education student teaching handbook examined by the writer required periodic supervision by the public school and the college/university. However, the intent of this question was not to analyze such guidelines. The intent was to examine any relevant statutes, court decisions, state department of education rules/regulations, Attorneys' General Opinions/state superintendent interpretations, and specific teacher education policies directly bearing

³²¹"Administrative Guidelines."

Table 23

Status of Graduate Interns Regarding the Question of What Guidelines Exist for a Graduate Intern if a Teacher Strike or Other Work Stoppage Occurs: A Summary of Written Guidelines by Teacher Education Institutions for the United States and the District of Columbia for the 1976 - 1977 School Year

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Alabama	X	
Alaska	X	
Arizona	X	
Arkansas	X	
California	X	
Colorado	X	
Connecticut	X	
Delaware	X	
District of Columbia	X	
Florida	X	
Georgia	X	
Hawaii	X	
Idaho	X	
Illinois	X	
Indiana	X	
Iowa	X	
Kansas	X	

Table 23--(Continued)

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Kentucky		X
Louisiana		X
Maine		X
Maryland		X
Massachusetts		X
Michigan		X
Minnesota		X
Mississippi		X
Missouri		X
Montana		X
Nebraska		X
Nevada		X
New Hampshire		X
New Jersey		X
New Mexico		X
New York		X
North Carolina		X
North Dakota		X
Ohio		X
Oklahoma		X

Table 23--(Continued)

State	Written guidelines by teacher edu- cation institution	No evidence found address- ing question
Oregon		X
Pennsylvania		X
Rhode Island		X
South Carolina		X
South Dakota		X
Tennessee		X
Texas		X
Utah		X
Vermont		X
Virginia		X
Washington		X
West Virginia		X
Wisconsin	X	
Wyoming		X

the question of whether or not the student teacher may legally assume control of a structured learning experience without the direct supervision of someone. This section was limited to what student teachers, normally, do in the clinical experience as student teachers and not as substitute teachers. Those states which allow student teachers to be substitutes are addressed in section 11a.

Only Illinois, New York, and North Dakota statutes specifically authorize the student teacher to teach without direct supervision. The Illinois statute specifically states that the student teacher does not have to be directly supervised. The statute provides:

Nothing in this Section shall require constant supervision of a student teacher enrolled in a student teaching course at a college or university, provided such activity has the prior approval of the representative of the higher education institution and teaching plans have previously been discussed with and approved by the supervising teacher and further provided that such teaching is within guidelines established by the Superintendent of Public Instruction.³²²

A New York statute provides in part:

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher.³²³

³²²Illinois Revised Statutes, § 10-22, 34.

³²³Education Law, § 3001.

A North Dakota statute provides in part:

. . . The student teacher shall be deemed a certificated employee of the district with respect to acts performed by him at the direction, suggestion, or consent of the certificated employees under whose supervision and control the holder performs his duties, whether or not such duties are performed entirely in the presence of the employees of the district assigned to supervise the holder, and shall be deemed an employee of the school district.³²⁴

Illinois, New York, and North Dakota statutes give authority to the student teacher to teach without constant, immediate and direct supervision, but the supervisor obviously retains supervision and direction over the student teacher in these functions.

Nevada statute requires noncertificated personnel (which includes student teachers) to be given direct supervision in instructional duties "but [they] may perform duties which are not primarily instructional in value without a certificated person in attendance."³²⁵

Student teachers in California must be directly supervised by the classroom teacher as the California statute provides in part:

The holder of such a certificate shall work under the immediate supervision of a credentialed classroom teacher to whom the teacher-assistant is assigned, who shall be present in the classroom while the teacher-assistant is performing his classroom duties or who shall be available at all times to provide guidance and direction to the teacher-assistant.³²⁶

In two states the question of direct supervision is revealed in Attorneys' General opinions. In Delaware, student teachers are

³²⁴ N.D.C.C., § 15-47-42.

³²⁵ Nevada Revised Statutes, § 391.100,2(a).

³²⁶ West's Annotated California Code, § 13162.

permitted to assume all classroom duties including instruction without supervision. Specifically, the Delaware Attorney General ruled, "as long as it is not the plan of the local board to use student teachers on a regular basis instead of certified teachers."³²⁷

The Attorney General of Kentucky took the opposite view in an opinion which said ". . . that a student teacher may not regularly take charge of a classroom in the absence of the regular teacher."³²⁸

Only three of the largest teacher education institutions of each state offer suggestions in response to this question. According to Indiana University:

The Supervising Teacher may leave the classroom with the student Teacher in charge of the class, but the Supervising Teacher shall, at all times, retain the responsibility for controlling the class and the program of instruction.³²⁹

Virginia Polytechnic Institute and State University succinctly addresses this question as follows:

When a cooperating teacher leaves a student teacher in complete charge of a classroom, he does so at his own risk and may incur liability for injury resulting to pupils in his charge. The cooperating teacher is encouraged to periodically leave the student teacher in charge. However, the maturity level of the class, the ability of the student teacher, and the nature of the classroom activity should be taken into consideration before the cooperating teacher leaves his classroom.³³⁰

The University of Northern Iowa takes a similar approach as evidence by the following:

³²⁷ A.G.O. 82, October 19, 1972.

³²⁸ O.A.G. 63 269, April 2, 1963.

³²⁹ "Agreement," 4b, p. 3.

³³⁰ "Handbook," pp. 23-24.

. . . It seems clear that the sponsor teacher who remains in the classroom taking reasonable and prudent care in the supervision of his/her pupils assumes little risk. However, good supervisory practice in working with an associate teacher dictates that the sponsor teacher, after having ascertained the competency of/and maturity level of the associate teacher and knowing the maturity level of his/her pupils and aware of the inherent dangers involved in the activities associated with the instructional process, should leave the class in charge of the associate teacher at certain times.³³¹

The research failed to reveal any other written evidence that indicated whether or not the student teacher has the authority to teach without constant, immediate and direct supervision. (Table 24)

8b) Does the undergraduate aide have the authority to aid the classroom teacher without constant, immediate and direct supervision?

An examination of all relevant materials failed to reveal any implied or direct information specifically addressed to the question of whether or not the undergraduate aide has the authority to aid the classroom teacher without constant, immediate and direct supervision.

Due to a lack of data a table is not presented for this section.

8c) Does the graduate intern have the authority to assume duties without constant, immediate and direct supervision?

The research failed to show any specific legal guidelines regarding this question. It may be argued that the graduate intern

³³¹"Handbook," p. 67.

Table 24

Status of Student Teachers Regarding the Question of Whether a Student Teacher May Teach Without Direct Supervision: A Summary of Legislation, Attorneys General Opinions, and Teacher Education Institutions Guidelines in the United States and the District of Columbia for the 1976 - 1977 School Year

State	Specific legislation permits practice	Attorneys General opinions	Specific teacher education institution guidelines	No evidence found addressing question
Alabama				X
Alaska				X
Arizona				X
Arkansas				X
California	No			
Colorado				X
Connecticut				X
Delaware				
District of Columbia		Yes		X
Florida				X
Georgia				X
Hawaii				X
Idaho				X
Illinois	Yes			

Table 24--Continued

State	Specific legislation permits practice	Attorneys General opinions	Specific teacher education institution guideline	No evidence found addressing question
Indiana			Yes Encourages	
Iowa				X
Kansas				
Kentucky		No		X
Louisiana				
Maine				X
Maryland				X
Massachusetts				X
Michigan				X
Minnesota				X
Mississippi				X
Missouri				X
Montana				X
Nebraska				X
Nevada	Depending upon duties			
New Hampshire				X
New Jersey				X
New Mexico				X
New York	Yes			
North Carolina				X

Table 24--Continued

State	Specific legislation permits practice	Attorneys General opinions	Specific teacher education institution guideline	No evidence found addressing question
North Dakota	Yes			
Ohio				X
Oklahoma				X
Oregon				X
Pennsylvania				X
Rhode Island				X
South Carolina				X
South Dakota				X
Tennessee				X
Texas				X
Utah				X
Vermont				X
Virginia			Encourages	
Washington				X
West Virginia				X
Wisconsin				X
Wyoming				X

is usually older and has more educational training than the student teacher, and in those states which permit unsupervised student teaching, the graduate intern might reasonably be given unsupervised duties also. However, while this may be quite reasonable, the research failed to reveal any guidelines taking this position in these states or any other state.

Due to the lack of data a table is not presented for this section.

9a) Do student teachers have authority to discipline pupils?

In examining the data, the methodology was limited by design to the question of whether or not the student teacher could administer corporal punishment. This was done in order to put the data into a manageable proportion, and the question of corporal punishment most likely would be the one to give rise to a legal issue.

Massachusetts,³³² New Jersey,³³³ and the District of Columbia³³⁴ forbid corporal punishment. Therefore the question does not apply to these two states and the District of Columbia. The student teacher obviously would be bound by such laws.

No evidence was found addressing the question of student teachers administering corporal punishment in California, Illinois, New York and Pennsylvania. However, corporal punishment is forbidden

³³²Massachusetts General Laws, Annotated, § 71, 37G.

³³³New Jersey Revised Statutes, § 18:19-1.

³³⁴Alan Levine, Eve Cary and Diane Divoky, The Rights of Students, The Basic ACLU Guide to Student's Rights (New York: Avon, 1973), p. 91

by the school boards of Oakland,³³⁵ Chicago,³³⁶ New York City,³³⁷ and Pittsburgh.³³⁸ Student teachers in these cities cannot administer corporal punishment based on school board policies.

Student teachers as well as other public school educators who administer corporal punishment should be guided by recent court decisions³³⁹ and the state laws concerning corporal punishment and assault and battery.

Although in the city of Baltimore corporal punishment is forbidden,³⁴⁰ the state statute says:

During the time the student teacher is assigned as a student teacher, any student teacher shall be given the same authority as if the student teacher were a certificated employee of the school board in which he is assigned. The authority of the student teacher shall extend to all aspects of student management or discipline.³⁴¹

Thus, student teachers may administer corporal punishment in the state of Maryland with the exception of the city of Baltimore.

The North Dakota statute uses the exact same words in saying:
 ". . . The authority of the student teacher shall extend to all aspects of student management or discipline. . . ."³⁴²

³³⁵ Smith v. Jackson, Civil Action No. C-70-1192-RFP.
 (N.D. Cal.).

³³⁶ Levine

³³⁷ Levine

³³⁸ Levine e

³³⁹ See Baker v. Owen, 395 F. Supp. 294, 96 S. Ct. 210 (1975), and Ingraham v. Wright, 525 F.2d 909 (1974), 45 U.S.L.W. 4364 (1977).

³⁴⁰ Levine

³⁴¹ Maryland School Laws, § 116B.

³⁴² N.D.C.C., § 15-47-42.

Student teachers are referred to in the statute giving teachers the authority to administer corporal punishment in the public schools of North Carolina. The statute provides as follows:

Principals, teachers, substitute teachers, voluntary teachers, teachers' aides and assistants and student teachers in the public schools of this State may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. No county or city board of education or district committee shall promulgate or continue in effect a rule, regulation or bylaw which prohibits the use of such force as is specified in this section.³⁴³

Student teachers have authority to discipline students under the following statute under West Virginia law:

The teacher shall stand in place of the parent or guardian in exercising authority over the school, and shall have control of all pupils enrolled in the school from the time they reach the school until they have returned to their respective homes . . . for the purpose of this section . . . "teacher" shall include principals, regular teachers, substitute teachers, student teachers and teacher aides.³⁴⁴

Missouri legislation requires that student teachers be issued student teacher certificates. Any teacher who enters a public school ". . . to teach, govern and discipline . . . must have a teaching certificate."³⁴⁵ Although this section is quite debatable as to the intent, it is conceivable that with a student teaching certificate comes the authority to discipline.

³⁴³North Carolina General Statutes, § 115-146.

³⁴⁴West Virginia Code, § 5-18-A-5-1.

³⁴⁵RSMo., § 168.081.

Arkansas,³⁴⁶ Florida,³⁴⁷ Iowa,³⁴⁸ Kentucky,³⁴⁹ Mississippi,³⁵⁰ Montana,³⁵¹ Nebraska,³⁵² and Oklahoma³⁵³ all provide by statute that student teachers have the same "equal protection of the laws" as that of regular certified teachers. Since regular certified teachers in those states have the right to administer corporal punishment it might be argued that this authority also extends to student teachers. A Tennessee statute also gives the "same protection of the laws" to the student as that of a "certificated teacher."³⁵⁴ However, the largest state teacher education institution in Tennessee states:

Student teachers may not participate in administering corporal punishment to students, nor may they serve as "witnesses" as staff members administer corporal punishment.³⁵⁵

Likewise the largest state teacher education institution in Nevada says that the student teacher should ". . . never under any circumstances administer corporal punishment."³⁵⁶

³⁴⁶ Arkansas Statutes, § 80-1262.

³⁴⁷ Florida Statutes, § 228.041(9).

³⁴⁸ Code of Iowa, § 260.27

³⁴⁹ K.R.S., § 161.042(3)

³⁵⁰ Mississippi Code, § 37-132-5.

³⁵¹ Montana Revised Code, § 75-6001.

³⁵² Revised Statutes of Nebraska, § 79-1298.

³⁵³ Oklahoma Statutes, § 1-16-5.

³⁵⁴ Tennessee Code, § 49-1302.

³⁵⁵ "Student Teaching Handbook" (Knoxville: University of Tennessee), p. 12.

³⁵⁶ "Student Teaching Handbook" (Las Vegas: University of Nevada), p. 3.

No evidence could be found addressing the question of whether or not student teachers have authority to discipline pupils in the remaining 28 states. (See Table 25)

9b) Do undergraduate aides have authority to discipline pupils?

As with section 9a, the methodology was limited by design to the question of whether or not the undergraduate aide could administer corporal punishment. The states of Massachusetts, New Jersey, and the District of Columbia were not addressed as corporal punishment is forbidden as mentioned in the previous section.

The pertinent North Carolina statute states that a "teachers' aide" or "assistant . . . may use reasonable force . . . to correct pupils."³⁵⁷ The terms "aide" or "assistant," however, are not defined by the General Statutes. The undergraduate aide depending upon the intent of the legislature may or may not be within scope of the statute.

Florida,³⁵⁸ Mississippi,³⁵⁹ and Nebraska³⁶⁰ all provide by statute the same or equal protection of the laws by student interns. As with student teachers discussed earlier one might argue this may include the authority to discipline students, including the administering of corporal punishment.

³⁵⁷North Carolina General Statutes, § 115-146.

³⁵⁸Florida Statutes, § 228.041(9)

³⁵⁹Mississippi Code, § 37-132-5.

³⁶⁰Revised Statutes of Nebraska, § 79-1298.

Table 25

Status of Student Teachers Regarding the Question of Whether a Student Teacher has Authority to Discipline Pupils: A Summary of Corporal Punishment Being Forbidden, Student Teachers Given Authority to Discipline, Legislative Status Reflecting Upon Question and Teacher Education Guidelines in the United States and the District of Columbia for the 1976 - 1977 School Year

State	Corporal punishment forbidden in state	Student teachers given authority to discipline	Perhaps by legislative status (see text)	Guideline by teacher education institution	No evidence found addressing question
Alabama				X	
Alaska				X	
Arizona				X	
Arkansas			X		
California	(in Oakland)				X
Colorado				X	
Connecticut				X	
Delaware				X	
District of Columbia	X				
Florida			X		
Georgia				X	
Hawaii				X	
Idaho				X	
Illinois	(in Chicago)				X

Table 25--Continued

State	Corporal punishment forbidden in state	Student teachers given authority to discipline	Perhaps by legislative status (see text)	Guideline by teacher education institution	No evidence found addressing question
Indiana				X	
Iowa			X		
Kansas			X		
Kentucky			X		
Louisiana				X	
Maine				X	
Maryland		(in Baltimore) Legislation			
Massachusetts	X				
Michigan					X
Minnesota				X	
Mississippi			X		
Missouri					
Montana			X		
Nebraska			X		
Nevada				X	X
New Hampshire					X
New Jersey	X				
New Mexico					X
New York		(in New York City) Legislation			X
North Carolina					

Table 25--Continued

State	Corporal punishment forbidden in state	Student teachers given authority to discipline	Perhaps by legislative status (see text)	Guideline by teacher education institution	No evidence found addressing question
North Dakota	Legislation				
Ohio					X
Oklahoma			X		
Oregon					X
Pennsylvania	(in Pittsburgh)				X
Rhode Island					X
South Carolina					X
South Dakota					X
Tennessee			X	X	
Texas					X
Utah					X
Vermont					X
Virginia					X
Washington					X
West Virginia	Legislation				
Wisconsin					X
Wyoming					X

No evidence could be found addressing the question of whether or not undergraduate aides have authority to discipline pupils in the remaining 44 states. (See Table 26)

9c) Do graduate interns have authority to discipline pupils?

As with sections 9a and 9b, the methodology was limited to the question of whether or not the graduate intern could administer corporal punishment.

Florida, Mississippi, and Nebraska, as mentioned earlier, provide the same protection of the laws to student interns as that of certified teachers. Again one might argue that with this may come the authority to discipline students including the administering of corporal punishment. (See Table 27)

10a) Are student teachers liable for injury sustained by pupils under their supervision?

Every student teacher is responsible for his/her own negligent acts, as any citizen would be. Generally student teachers are "quasi-licensed professionals" and "would stand in a teacher-like relationship to pupils as to supervision, duty of care and so forth."³⁶¹

The examination of the data was to analyze whether or not student teachers are covered by state indemnification or "save harmless" statutes. These laws either permit or require the school district, at its own expense, to defend student teachers and pay

³⁶¹Hazard, p. 4.

Table 26

Status of Undergraduate Aides Regarding the Question of Whether an Undergraduate Aide has Authority to Discipline Pupils: A Summary of Corporal Punishment Being Forbidden, Undergraduate Aides Given Authority to Discipline, and Legislative Status Reflecting Upon the Question in the United States and the District of Columbia
for the 1976 - 1977 School Year

State	Corporal punishment forbidden in state	Undergraduate aide given authority to discipline	Perhaps by legislative status	No evidence found addressing question
Alabama				X
Alaska				X
Arizona				X
Arkansas				X
California	(in Oakland)			X
Colorado				X
Connecticut				X
Delaware				X
District of Columbia	X			
Florida			X	
Georgia				X
Hawaii				X
Idaho				X
Illinois	(in Chicago)			X

Table 26--Continued

State	Corporal punishment forbidden in state	Undergraduate aide given authority to discipline	Perhaps by legislative status	No evidence found addressing question
Indiana				X
Iowa				X
Kansas				X
Kentucky				X
Louisiana				X
Maine				X
Maryland	(in Baltimore)			X
Massachusetts	X			X
Michigan				X
Minnesota				X
Mississippi			X	
Missouri				X
Montana				X
Nebraska			X	
Nevada				X
New Hampshire				X
New Jersey	X			
New Mexico				X
New York	(in New York City)			X
North Carolina		Perhaps by legislation		

Table 26--Continued

State	Corporal punishment forbidden in state	Undergraduate aide given authority to discipline	Perhaps by legislative status	No evidence found addressing question
North Dakota				X
Ohio				X
Oklahoma				X
Oregon				X
Pennsylvania	(in Pittsburgh)			X
Rhode Island				X
South Carolina				X
South Dakota				X
Tennessee				X
Texas				X
Utah				X
Vermont				X
Virginia				X
Washington				X
West Virginia				X
Wisconsin				X
Wyoming				X

Table 27

Status of Graduate Interns Regarding the Question of Whether a Graduate Intern has Authority to Discipline Pupils: A Summary of Corporal Punishment Being Forbidden and Legislative Status Reflecting Upon the Question in the United States and the District of Columbia for the 1976 - 1977 School Year

State	Corporal punishment forbidden in state	Perhaps by legislative status	No evidence found addressing question
Alabama			X
Alaska			X
Arizona			X
Arkansas			X
California	(in Oakland)		X
Colorado			X
Connecticut			X
Delaware			X
District of Columbia	X		
Florida		X	
Georgia			X
Hawaii			X
Idaho			X
Illinois	(in Chicago)		X
Indiana			X
Iowa			X
Kansas			X
Kentucky			X
Louisiana			X
Maine			X
Maryland	(in Baltimore)		X
Massachusetts	X		
Michigan			X
Minnesota			X
Mississippi		X	

Table 27--Continued

State	Corporal punishment forbidden in state	Perhaps by legislative status	No evidence found addressing question
Missouri			X
Montana			X
Nebraska		X	
Nevada			X
New Hampshire			X
New Jersey	X		
New Mexico			X
New York	(in New York City)		X
North Carolina			X
North Dakota			X
Ohio			X
Oklahoma			X
Oregon			X
Pennsylvania	(in Pittsburgh)		X
Rhode Island			X
South Carolina			X
South Dakota			X
Tennessee			X
Texas			X
Utah			X
Vermont			X
Virginia			X
Washington			X
West Virginia			X
Wisconsin			X
Wyoming			X

judgments against them. The data are presented in a slightly different pattern from the previous sections to emphasize the legal position of the student teacher and the hierarchy of the laws within the given position taken by the state.

In Arkansas and Idaho employees are covered by state government immunity laws.³⁶² In these states student teachers are given the same liability protection as that of regular certified teachers.³⁶³

In twelve states the school districts must indemnify student teachers for their legal liability arising out of, or in the course of their clinical experience, or while acting at the direction of the school board. New Jersey indemnifies student teachers by the following passage:

Whenever any civil action has been or shall be brought against any person holding any office, position or employment under the jurisdiction of any board of education, including any student teacher, for any act or omission arising out of and in the course of the performance of the duties as such office, position, employment or student teaching, the board shall defray all costs of defenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom; and said board may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.³⁶⁴

³⁶² James S. Kemper Institute, "Association of School Business Officials Insurance Workshops" (Boston: ASBO Insurance Workshop), October 3-4, 1976.

³⁶³ Arkansas Statutes, § 80-1262, and Idaho Code, § 33-1201.

³⁶⁴ New Jersey Revised Statutes, § 18A:16-6.

Four states have very similar "save harmless" statutes.

Connecticut,³⁶⁵ Illinois,³⁶⁶ and New York³⁶⁷ mention student teachers specifically in their statutes whereas student teachers are included by interpretation in Hawaii's Tort Liability Act.³⁶⁸

Colorado,³⁶⁹ Iowa,³⁷⁰ Maryland,³⁷¹ North Dakota,³⁷² and Utah³⁷³ statutes all provide that student teachers are to receive the same liability insurance protection as that of regular certified teachers. Wyoming, by a ruling of the State Department of Education, requires all school districts to provide liability protection for student teachers.³⁷⁴ According to the Kemper Institute, student teachers must be indemnified for legal liability in Arizona and Massachusetts.³⁷⁵ However, the research revealed no evidence to indicate whether or not student teachers must be indemnified.

³⁶⁵ General Statutes of Connecticut, § 10-235.

³⁶⁶ Illinois Revised Statutes, § 10-20.20.

³⁶⁷ Education Law, § 3023.

³⁶⁸ Hawaii Revised Statutes, § 662-1(2).

³⁶⁹ C.R.S., § 22-62-105(2), § 613A(.2)(.4).

³⁷⁰ Code of Iowa, § 260.27

³⁷¹ Maryland School Law, § 112.b(1).

³⁷² N.D.C.C. § 15-47-42.

³⁷³ Utah Code, Annotated, § 53-2-15.

³⁷⁴ Personal correspondence between Barbara A. Erickson, Assistant Attorney General and the writer, September 9, 1976.

³⁷⁵ Kemper.

Kansas Administrative Regulations states:

Student teachers, while in the performance of their duties and responsibilities as student teachers, shall be legally liable for their own acts and conduct, and shall be afforded protection under law, to the same extent as their cooperating teachers and other officers and employees of the school district.³⁷⁶

The largest teacher producing institution in California offers the following guidelines to its student teachers:

The district includes you on its liability insurance coverage. This means that the district is insured against action taken against it as a result of something you did. However, you are not personally insured by the district if someone were to sue you for something you have done at school. You must obtain your own coverage if you desire such protection.³⁷⁷

In Minnesota, Indiana, Nevada, North Carolina, Florida, and Wisconsin the local school board may indemnify student teachers for their legal liability arising out of, or in the course of their clinical experience, or while acting at the direction of the local school board.

A Minnesota statute provides that if regular district employees are provided with liability insurance then student teachers within the district should also be provided with the same coverage.³⁷⁸

Indiana University's "Agreement" with the cooperating school system calls for the same type of liability coverage for student teachers

³⁷⁶ 91-19-13.

³⁷⁷ "Rights and Responsibilities of Participants in the Credential Program of the Teacher Education Laboratory" (Los Angeles: University of California), p. 2.

³⁷⁸ Minnesota Statutes, § 123.35 subd. 13.

as afforded "members of the School Corporation's permanent faculty." ³⁷⁹

According to the Kemper Institute, student teachers may be indemnified for legal liability in Nevada and North Carolina. ³⁸⁰ There was, however, no evidence in the research to firmly establish whether or not student teachers may be indemnified in these states. School districts in Florida may indemnify employees for civil actions against the individual. Under Florida Law student teachers are "accorded the same protection of the laws" as that of a regular certified teacher. ³⁸¹ This being the case, those districts which indemnify employees may also indemnify student teachers.

Under Wisconsin law local boards of education are authorized "to procure liability insurance coverage for their officers, agents, and employees. It would be possible to argue that a student teacher is an agent of the school district within the meaning of [this] statute. . . ." ³⁸²

The research indicates that Virginia is the only state which specifically states that a school district may not purchase liability insurance on behalf of a student teacher. A portion of an Attorney General's opinion says:

³⁷⁹ "Agreement," 5b, p. 3.

³⁸⁰ Kemper

³⁸¹ Florida Statutes, § 228.041(9).

³⁸² Personal correspondence between Kathryn Daut, Legal Counsel to the Deputy State Superintendent and the writer, June 16, 1976. [Referring to Wisconsin Statutes, § 66.18.]

. . . In the absence of any relevant statutory definition, I am unable to conclude that a student teacher is an employee of a school board. Consequently, there is no statutory grant of authority to a school board to purchase liability insurance on behalf of a student teacher.³⁸³

The Virginia Attorney General's opinion seems somewhat contradictory to the previous logic expressed in section 1a, which implied that school boards may accept student teachers because it is not an expressly prohibited activity. The Virginia Attorney General implies that since there is no statutory grant of authority, the local board may not engage in such activity.

In the remaining 27 states no evidence was found addressing the question of student teacher liability. (See Table 28)

10b) Are undergraduate aides liable for injuries sustained by pupils under their supervision?

As with student teachers, undergraduate aides are responsible for their own negligent acts. Undergraduate aides usually do not have the status that student teachers have due to the lack of formal professional training that is associated with each of the positions.

The term "undergraduate aide" was not mentioned specifically in any of the data examined. A few states, however, use other broad terms which would encompass undergraduate aides in their indemnification or "save harmless" statutes. For example, the pertinent Colorado statute uses the phase "student of teaching," which would seem to

³⁸³Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., January 13, 1976.

Table 28

Status of Student Teachers Regarding the Question of Student Teacher Liability for Pupil Injury: A Summary of Employee Indemnification, and School Districts Which Must, May, or May Not Indemnify Student Teachers for Liability in the United States and the District of Columbia for the 1976 - 1977 School Year

State	Student teacher given same protection as employees who have immunity	School district's indemnification of student teachers for legal liability			No evidence found addressing question
		Must	May	May not	
Alabama					X
Alaska					X
Arizona					
Arkansas	X				
California			X (limited)		
Colorado		X			
Connecticut		X			
Delaware					X
District of Columbia					X
Florida			X (limited)		
Georgia					X
Hawaii		X			
Idaho	X				
Illinois		X			

Table 28 --Continued

State	Student teacher given same pro- tection as em- ployees who have immunity	School district's indemnification of student teachers for legal liability			No evidence found address- ing question
		Must	May	May not	
Indiana			X		
Iowa					
Kansas					
Kentucky					
Louisiana					
Maine					
Maryland					
Massachusetts		X			
Michigan		Xa			
Minnesota					
Mississippi					
Missouri					
Montana					
Nebraska					
Nevada			Xa		
New Hampshire					
New Jersey			X		
New Mexico					
New York			X		
North Carolina				Xa	

Table 28--Continued

State	Student teacher given same pro- tection as em- ployees who have immunity	School district's indemnification of student teachers for legal liability			No evidence found address-
		Must	May	May not	
North Dakota		X			
Ohio					X
Oklahoma					X
Oregon					X
Pennsylvania					X
Rhode Island					X
South Carolina					X
South Dakota					X
Tennessee					X
Texas					X
Utah		X			
Vermont					X
Virginia				X	
Washington					X
West Virginia					X
Wisconsin			X (see text)		
Wyoming		X			

^aData provided by the Kemper Institute.

cover undergraduate aides.³⁸⁴ While Connecticut uses the phrase, "any volunteer approved by a board of education to carry out a duty prescribed by said board. . . ."³⁸⁵ Maryland law covers "student interns" for liability insurance coverage.³⁸⁶ In Hawaii undergraduate aides may be considered agents under the state Tort Liability Act.³⁸⁷

In Indiana and Wisconsin undergraduate aides may be indemnified by the local board. Indiana's largest teacher producing institution calls for such coverage,³⁸⁸ while, under Wisconsin law they are considered "agents."³⁸⁹

Based on the Virginia Attorney General's logic mentioned in section 10a, undergraduate aides would not be covered by school district purchased liability insurance.

In the remaining 43 states and the District of Columbia no evidence could be found addressing this question. (See Table 29)

10c) Are graduate interns liable for injuries sustained by pupils under their supervision?

As with any private citizen, graduate interns are responsible for their own negligent acts. The term graduate intern is not

³⁸⁴ C.R.S., § 22-62-105(2).

³⁸⁵ General Statutes of Connecticut, § 10-235.

³⁸⁶ Maryland School Laws, § 112B(1).

³⁸⁷ Hawaii Revised Statutes, § 662-1(2).

³⁸⁸ "Agreement" 5b, p. 3.

³⁸⁹ Daut.

Table 29

Status of Undergraduate Aides Regarding the Question of Under-
 graduate Aide Liability for Pupil Injury: A Summary of
 School Districts which Must or May Indemnify Under-
 graduate Aides for Liability in the United States
 and the District of Columbia for
 the 1976 - 1977 School Year

State	School district's indemnification of undergraduate aide for legal liability		No evidence found address- ing question
	Must	May	
Alabama			X
Alaska			X
Arizona			X
Arkansas			X
California			X
Colorado	X		
Connecticut	X		
Delaware			X
District of Columbia			X
Florida			X
Georgia			X
Hawaii	X		
Idaho			X
Illinois			X
Indiana			X
Iowa			X
Kansas			X
Kentucky			X
Louisiana			X
Maine			X
Maryland	X		
Massachusetts			X

Table 29--Continued

State	School district's indemnification of undergraduate aide for legal liability		No evidence found address- ing question
	Must	May	
Michigan			X
Minnesota			X
Mississippi			X
Missouri			X
Montana			X
Nebraska			X
Nevada			X
New Hampshire			X
New Jersey			X
New Mexico			X
New York			X
North Carolina			X
North Dakota			X
Ohio			X
Oklahoma			X
Oregon			X
Pennsylvania			X
Rhode Island			X
South Carolina			X
South Dakota			X
Tennessee			X
Texas			X
Utah			X
Vermont			X

Table 29--Continued

State	School district's indemnification of undergraduate aide for legal liability		No evidence found address- ing question
	Must	May	
Virginia			X (see text)
Washington			X
West Virginia			X
Wisconsin		X (see text)	
Wyoming			X

mentioned in any of the data examined. Indemnification statutes mentioned in section 10b in Colorado, Connecticut, Maryland, Hawaii, and Wisconsin may also include graduate interns. Indiana University's "Agreement" as mentioned would also include graduate interns.

In Virginia, based on the opinion of the Attorney General, school divisions may not provide liability insurance for graduate interns. (See Table 30)

11a) May student teachers serve as substitute teachers in the absence of the assigned cooperating teacher? May the student teacher receive payment for his/her service?

Only in two states and the District of Columbia was evidence found in the state/district board of education rules/regulations concerning whether or not student teachers can serve as substitutes.

Delaware permits this practice and allows payment for the services rendered.³⁹⁰ The District of Columbia allows student teachers to substitute and makes the principal legally responsible for the class. The question of financial compensation is not addressed.³⁹¹ Kansas, on the other hand, prohibits student teachers from being used as substitute teachers.³⁹²

³⁹⁰"A Compilation School Laws," p. 75.

³⁹¹"Memorandum of Understanding," IV 4, and "The Elementary Student Teaching Programs" (Washington, D.C.: District of Columbia Teachers College), p. 4.

³⁹²Kansas Administrative Regulations, § 91-19-10.

Table 30

Status of Graduate Interns Regarding the Question of Graduate Intern Liability for Pupil Injury: A Summary of School Districts Which Must or May Indemnify Graduate Interns for Liability in the United States and the District of Columbia for the 1976 - 1977 School Year

State	School district's indemnification of graduate intern for legal liability		No evidence found address- ing question
	Must	May	
Alabama			X
Alaska			X
Arizona			X
Arkansas			X
California			X
Colorado	X		
Connecticut	X		
Delaware			X
District of Columbia			X
Florida			X
Georgia			X
Hawaii	X		
Idaho			X
Illinois			X
Indiana		X	
Iowa			X
Kansas			X
Kentucky			X
Louisiana			X
Maine			X
Maryland	X		
Massachusetts			X
Michigan			X

Table 30-- Continued

State	School district's indemnification of graduate intern for legal liability		No evidence found address- ing question
	Must	May	
Minnesota			X
Mississippi			X
Missouri			X
Montana			X
Nebraska			X
Nevada			X
New Hampshire			X
New Jersey			X
New Mexico			X
New York			X
North Carolina			X
North Dakota			X
Ohio			X
Oklahoma			X
Oregon			X
Pennsylvania			X
Rhode Island			X
South Carolina			X
South Dakota			X
Tennessee			X
Texas			X
Utah			X
Vermont			X
Virginia			X (see text)

Table 30--Continued

State	School district's indemnification of graduate intern for legal liability		No evidence found address- ing question
	Must	May	
Washington			X
West Virginia			X
Wisconsin		X (see text)	
Wyoming			X

Kentucky student teachers are prohibited from engaging in substitute teaching based on the opinion of the Attorney General. The Attorney General reasoned that the student teacher must be under "the direction and supervision of the teaching staff of the school district, . . ." and ". . . that a student is not qualified or authorized to serve as a substitute teacher . . ."³⁹³

In five states student teachers are permitted to serve as substitute teachers by the largest teacher education institution within each respective state. In each of these states the guidelines provided by the college/university either prohibited financial compensation or do not discuss the subject. No institution guideline examined clearly authorizes the student teacher to accept payment while serving as a substitute teacher. The largest teacher education institutions in Connecticut³⁹⁴ and South Carolina³⁹⁵ clearly state that student teachers may not accept compensation from serving as substitute teachers. The largest education institutions in Indiana,³⁹⁶ New Jersey,³⁹⁷ and Tennessee³⁹⁸ permit student teachers to serve as substitutes for limited periods of time. The question of whether or

³⁹³ O.A.G., 63-269, April 2, 1963.

³⁹⁴ "Student Teaching," p. 4.

³⁹⁵ "Student Teaching Handbook" (Rock Hill: Winthrop College), p. 6.

³⁹⁶ "Agreement," 4c., p. 3.

³⁹⁷ "Handbook for Professional Laboratory Experiences" (Glassboro State College), p. 7.

³⁹⁸ "Student Teaching Handbook."

not they could receive financial compensation specifically as a substitute teacher was not addressed.

The largest teacher education institutions in Florida,³⁹⁹ Hawaii,⁴⁰⁰ Illinois,⁴⁰¹ Maryland,⁴⁰² Rhode Island,⁴⁰³ and Wisconsin⁴⁰⁴ state that student teachers are not to serve as substitute teachers. The largest teacher education institution in Georgia discourages the use of student teachers as substitute teachers. According to the University of Georgia, school principals should:

Refrain from using student teachers as substitute for faculty members who may be absent from school. Such use is contrary to state Department of Education policies. (It may be acceptable in emergencies for the student teacher to relieve the supervising teacher when the student teacher has been teaching in the school long enough to feel comfortable and secure in assuming certain responsibilities while the supervising teacher fills in for a short period of time for a teacher who is absent.)⁴⁰⁵

The research, however, revealed no written state department policy in Georgia concerning the question of whether or not student teachers may receive payment for their services.

399 "Handbook for Internship" (Tampa: University of South Florida), p. 5.

400 "Handbook for Student Teachers and Cooperating Teachers" (Honolulu: University of Hawaii), p. 13.

401 "Student Teaching Handbook" (Normal: Illinois State University), p. 42.

402 "Handbook for Cooperating Teachers" (College Park: University of Maryland), p. 4.

403 "Student Teaching in the Elementary School, A Handbook" (Providence: Rhode Island College), p. 15.

404 "Administrative Guidelines," p. 24.

405 "Student Teaching Handbook, General Description and Guide for Cooperative Teacher Education" (Athens: University of Georgia), p. 47.

The largest producer of teachers in Iowa has the following policies concerning substitute teaching by student teachers:

Associate teachers from the University of Northern Iowa fulfilling the associate teaching requirement in a self-contained classroom shall not be used as a substitute for the sponsor teacher or any other teacher.

Associate teachers from the University of Northern Iowa fulfilling the associate teaching requirement in a team-teaching/open-spaces environment may substitute for the sponsor teacher or other members of the team but not for any other teacher. (Optional. Not encouraged.)⁴⁰⁶

The largest producer of teachers in Pennsylvania has the following policy concerning student teachers as substitutes:

Student teachers who are receiving University credit for their work must not be used as substitute teachers, either with or without pay.

Occasionally it is permissible, in the absence of the cooperating teacher for a short period of time, part or all of one or two school days for the student teacher to assume responsibility for classes where he is student teaching, on the condition that the school principal, the University supervisor, the cooperating teacher, and the student teacher himself agree to the arrangement.⁴⁰⁷

In the remaining 34 states no evidence was found addressing the question of whether or not student teachers are authorized to serve as substitute teachers and whether or not they may receive financial compensation for their services. (See Table 31)

11b) May undergraduate aides serve as substitute teachers during their clinical experience? May the aide receive payment for his/her service?

⁴⁰⁶ "Handbook," p. 38.

⁴⁰⁷ "Student Teaching Handbook" (University Park: Pennsylvania State University), p. 34.

Table 31

Status of Student Teachers Regarding the Question of a Student Teacher Serving as a Substitute/
 Receiving Payment: A Summary of State Department Rules and Regulations, Attorneys General
 Opinions, and Teacher Education Policies in the United States and the District of
 Columbia for the 1976 - 1977 School Year

State	State Dept. of Ed. rule/regulation permits/may receive payment	Attorneys General opinion	Teacher education institution policy permits/may receive payment	No evidence found address- ing question
Alabama				X
Alaska				X
Arizona				X
Arkansas				X
California				X
Colorado				X
Connecticut				
Delaware	Yes/\$ Yes		Yes/\$ No	
District of Columbia	Yes/\$?			
Florida			No/\$ N.A. (see text)	
Georgia			No/\$ N.A.	
Hawaii				
Idaho				X
Illinois			No/\$ N.A.	

Table 31--Continued

State	State Dept. of Ed. rule/regulation permits/may receive payment	Attorneys General opinion permits	Teacher education institution policy permits/may receive payment	No evidence found address- ing question
Indiana			Yes/\$? See text/\$ No	
Iowa				
Kansas	No/\$ N.A.			
Kentucky		No/\$ N.A.		X
Louisiana				
Maine				X
Maryland				
Massachusetts			No/\$ N.A.	X
Michigan				X
Minnesota				X
Mississippi				X
Missouri				X
Montana				X
Nebraska				X
Nevada				X
New Hampshire				X
New Jersey			Yes/\$?	
New Mexico				X
New York				X
North Carolina				X

Table 31--Continued

State	State Dept. of Ed. rule/regulation permits/may receive payment	Attorneys General opinion permits	Teacher education institution policy permits/may receive payment	No evidence found address- ing question
North Dakota				X
Ohio				X
Oklahoma				X
Oregon				X
Pennsylvania			See Text/\$ No	
Rhode Island			No/\$ N.A.	
South Carolina			Yes/\$ No	
South Dakota				X
Tennessee			Yes/\$?	
Texas				X
Utah				X
Vermont				X
Virginia				X
Washington				X
West Virginia				X
Wisconsin			No/\$ N.A.	
Wyoming				X

As discussed in the previous section, Florida, Illinois, Kansas, Kentucky, Maryland, Rhode Island, and Wisconsin forbid student teachers to serve as substitutes.

In these states it would seem illogical to permit undergraduate aides to serve as substitutes since student teachers may not engage in the practice. In those states that permit student teachers to serve as substitutes, there was no specific reference to the question of undergraduate aides serving in that capacity. (See Table 32)

11c) May graduate interns serve as substitute teachers during their clinical experience? May the intern receive payment for his/her services?

Since graduate interns qualify for substitute certificates, Delaware⁴⁰⁸ and New York⁴⁰⁹ permit graduate interns to serve as substitute teachers and be compensated for such services.

The largest teacher education institution in Wisconsin allows graduate interns to serve as substitute teachers for limited periods of time,⁴¹⁰ although the question of financial compensation is not addressed by the University. No evidence could be found speaking to the question of whether or not a graduate intern is authorized to serve in the capacity of a substitute teacher in the remaining 47 states and the District of Columbia. (See Table 33)

⁴⁰⁸"A Compilation School Laws."

⁴⁰⁹Memo: Certification of Qualification" (Albany: Division of Teacher Education and Certification) DivTEC 75-76(a).

⁴¹⁰"Administrative Guidelines."

Table 32

Status of Undergraduate Aides Regarding the Question of an Undergraduate Aide Serving as a Substitute/Receiving Payment: A Summary of State Department Rules and Regulations in the United States and the District of Columbia for the 1976-1977 School Year

State	State Dept. of Ed. rule/ regulation permits/may receive payment	No evidence found address- ing question
Alabama		X
Alaska		X
Arizona		X
Arkansas		X
California		X
Colorado		X
Connecticut		X
Delaware	X (see text)	
District of Columbia		X
Florida		X
Georgia		X
Hawaii		X
Idaho		X
Illinois		X
Indiana		X
Iowa		X
Kansas		X
Kentucky		X
Louisiana		X
Maine		X
Maryland		X
Massachusetts		X
Michigan		X
Minnesota		X

Table 32--Continued

State	State Dept. of Ed. rule/ regulation permits/may receive payment	No evidence found address- ing question
Mississippi		X
Missouri		X
Montana		X
Nebraska		X
Nevada		X
New Hampshire		X
New Jersey		X
New Mexico		X
New York		X
North Carolina		X
North Dakota		X
Ohio		X
Oklahoma		X
Oregon		X
Pennsylvania		X
Rhode Island		X
South Carolina		X
South Dakota		X
Tennessee		X
Texas		X
Utah		X
Vermont		X
Virginia		X
Washington		X
West Virginia		X
Wisconsin		X
Wyoming		X

Table 33

Status of Graduate Interns Regarding the Question of a Graduate Intern Serving as a Substitute Receiving Payment: A Summary of State Departmental Rules and Regulations and Teacher Education Institution Policies in the United States and the District of Columbia
for the 1976 - 1977 School Year

State	State Dept. of Ed. rule/regulation permits/may receive payment	Teacher education institution policy permits/may receive payment	No evidence found address- ing question
Alabama			X
Alaska			X
Arizona			X
Arkansas			X
California			X
Colorado			X
Connecticut			X
Delaware	Yes/\$ Yes		
District of Columbia			X
Florida			X
Georgia			X
Hawaii			X
Idaho			X
Illinois			X

Table 33--Continued

State	State Dept. of Ed. rule/regulation permits/may receive payment	Teacher education institution policy permits/may receive payment	No evidence found address- ing question
Indiana			X
Iowa			X
Kansas			X
Kentucky			X
Louisiana			X
Maine			X
Maryland			X
Massachusetts			X
Michigan			X
Minnesota			X
Mississippi			X
Missouri			X
Montana			X
Nebraska			X
Nevada			X
New Hampshire			X
New Jersey			X
New Mexico			X
New York	Yes/\$ Yes		
North Carolina			X

Table 33--Continued

State	State Dept. of Ed. rule/regulation permits/may receive payment	Teacher education institution policy permits/may receive payment	No evidence found address- ing question
North Dakota			X
Ohio			X
Oklahoma			X
Oregon			X
Pennsylvania			X
Rhode Island			X
South Carolina			X
South Dakota			X
Tennessee			X
Texas			X
Utah			X
Vermont			X
Virginia			X
Washington			X
West Virginia			X
Wisconsin		Yes/\$?	
Wyoming			X

12a) May student teachers have access to pupil records?

Two states use identical wording to authorize student teachers to handle pupil records. Maryland and North Dakota statutes use the following wording:

The authority of the student teacher shall extend to all aspects of student management or discipline, to the handling of records of students, and to all other aspects of authority granted to certificated employees.⁴¹¹

The research showed no further evidence of whether or not student teachers are authorized access to pupil records in the remaining 48 states and District of Columbia.

In 1974 a federal law, the Family Educational Rights and Privacy Act, commonly referred to as the Buckley/Pell Amendment, was passed by congress.⁴¹² In the final guidelines only "school officials" who have a "legitimate educational interest" may have open access to pupil records.⁴¹³ The determination of "school officials" and their "legitimate educational interests" are discretionary.

Should a school district determine that student teachers are "other school officials," student teachers may have access to education records if their interest in them is necessary to the education of their students they are teaching.⁴¹⁴ In the absence of state statutes

⁴¹¹Maryland School Law, §116B, and N.D.C.C., § 15-47-42.

⁴¹²Public Law 93-380.

⁴¹³Federal Register, Vol. 41, No. 118--Thursday, June 17, 1976, p. 24667.

⁴¹⁴Based on personal correspondence between Thomas S. McFee, Deputy Assistant Secretary for Management Planning and Technology and the writer, November 11, 1976.

and when dealing with the Family Educational Rights and Privacy Act it would appear that school officials would have the authority to allow or disallow access of pupil records to student teachers.

In the remaining 48 states and the District of Columbia the research revealed no evidence to show whether or not student teachers are authorized to have access to pupil records. (See Table 34)

12b) May undergraduate aides have access to pupil records?

The research revealed no specific evidence to establish whether or not undergraduate aides are authorized to have access to pupil records. As with student teachers, school officials would seem to have the authority to allow or disallow access to pupil records to undergraduate aides.

Due to the lack of data a table is not presented for this section.

12c) May graduate interns have access to pupil records?

The research revealed no specific evidence to indicate whether or not graduate interns are authorized to have access to pupil records in any state. As with student teachers it would appear that school officials would have the authority to allow or disallow access to pupil records to graduate interns.

Due to the lack of data a table is not presented for this section.

Table 34

Status of Student Teachers Regarding the Question of a Student Teacher Having Access to Pupil Records: A Summary of State Statutes in the United States and the District of Columbia for the 1976 - 1977 School Year

State	State statute allows	No evidence found addressing question
Alabama		X
Alaska		X
Arizona		X
Arkansas		X
California		X
Colorado		X
Connecticut		X
Delaware		X
District of Columbia		X
Florida		X
Georgia		X
Hawaii		X
Idaho		X
Illinois		X
Indiana		X
Iowa		X
Kansas		X
Kentucky		X
Louisiana		X
Maine		X
Maryland	X	
Massachusetts		X
Michigan		X
Minnesota		X

Table 34--Continued

State	State statute allows	No evidence found addressing question
Mississippi		X
Missouri		X
Montana		X
Nebraska		X
Nevada		X
New Hampshire		X
New Jersey		X
New Mexico		X
New York		X
North Carolina		X
North Dakota	X	
Ohio		X
Oklahoma		X
Oregon		X
Pennsylvania		X
Rhode Island		X
South Carolina		X
South Dakota		X
Tennessee		X
Texas		X
Utah		X
Vermont		X
Virginia		X
Washington		X
West Virginia		X
Wisconsin		X
Wyoming		X

13a, b, & c) During the clinical experience are there any unique and distinct differences found to exist between student teachers, undergraduate aides, graduate interns, and regular certified teachers not addressed in the previous analysis?

The research revealed only one case that did not fall within one of the previous sections, i.e., time spent during the senior year student teaching can not be counted toward one's "teaching experience" in order to qualify for a different certificate or teaching position.⁴¹⁵

In addition to the written teacher education guidelines previously addressed, a number of colleges/universities provided written guidelines concerning student teachers not dating students, student teachers not teaching in schools formerly attended as a pupil, and other similar topics which do not normally appear in the data examined, i.e., statutes, Attorneys General Opinions, etc.

The research showed no other written evidence addressing any further difference between undergraduate aides, graduate interns, and certified teachers. Due to the lack of data, a table is not presented for this brief section.

⁴¹⁵ State on Complaint of Schmidt v. Krull, 43 N.W. 2d 241 (1950).

Chapter 4

OVERALL FINDINGS AND RECOMMENDATIONS

Based on state statutes, court decisions, opinions of attorneys general or superintendent interpretations, state department of education rules and regulations, and the pertinent written policies of the largest public teacher training institutions of each state, the following conclusions are presented.

The local school board authority to permit persons to engage in student teaching can be classified as follows:

1. In 20 states and the District of Columbia (42%) school boards are specifically authorized to permit persons to engage in student teaching. These states are as follows:

Arkansas	Iowa	Nebraska	Oregon
California	Kansas	Nevada	South Dakota
Colorado	Kentucky	New York	Utah
Illinois	Maryland	North Carolina	Washington
Indiana	Minnesota	North Dakota	Wyoming

2. In 6 states (12%) school boards are authorized to permit persons to engage in student teaching under an approved program approach. These states are as follows:

Maine	Ohio
Michigan	Pennsylvania
New Hampshire	Vermont

3. In 4 states (8%) school boards are authorized by certification exemption statutes/regulations to permit persons to engage in student teaching. These states are as follows:

Arizona

Montana

New Mexico

Tennessee

4. In 3 states (6%) school boards are authorized by state certification guidelines only to permit persons to engage in student teaching. These states are as follows:

Missouri

Rhode Island

Wisconsin

5. In 3 states (6%) school boards are authorized by definition in the state code to permit persons to engage in student teaching.

These states are as follows:

Florida

Mississippi

Oklahoma

6. In 3 states (6%) school boards are authorized by constitutional statements to permit persons to engage in student teaching.

These states are as follows:

Alabama

Virginia

West Virginia

7. In 3 states (6%) school boards are authorized to permit persons to engage in student teaching by state liability protection statutes. These states are as follows:

Connecticut

Idaho

New Jersey

8. In 2 states (4%) school boards are authorized by a department of education administrative rule/regulation to permit persons to engage in student teaching. These states are as follows:

Georgia

Hawaii

9. In 1 state (2%) school boards are authorized by an Attorney General's Opinion to permit persons to engage in student teaching.

This state is:

Delaware

10. In 1 state (2%) school boards are authorized by a letter of authorization from the Commissioner of Education to permit persons to engage in student teaching. The state is as follows:

Alaska

11. In 4 states (8%) no evidence was found which authorized school boards to permit persons to engage in student teaching. These states are as follows:

Louisiana

Massachusetts

South Carolina

Texas

Concerning local school board authority to permit undergraduate aides:

1. In 14 states and the District of Columbia (29%) school boards are authorized by statutory language to permit undergraduate aide programs. These states are as follows:

California	Indiana	North Dakota
Colorado	Kentucky	South Dakota
Connecticut	Maryland	Washington
Florida	Montana	Wyoming
Illinois	Nevada	

2. In 2 states (4%) school boards are authorized by an Attorney General's Opinion to permit undergraduate aide programs. These states are as follows:

Delaware
Kansas

3. In 13 states (25%) school boards are authorized in some manner by the appropriate state department of education to permit undergraduate aide programs. These states are as follows:

Georgia	Mississippi	Oregon
Hawaii	New Jersey	Pennsylvania
Iowa	Ohio	Rhode Island
Minnesota	Oklahoma	West Virginia
		Wisconsin

4. In 2 states (4%) school boards might be authorized to permit undergraduate aide programs based on constitutional statements.

These states are as follows:

Alabama

Virginia

5. In the remaining 19 states (37%) no evidence was found which authorized school boards to permit undergraduate aide programs.

Concerning local school board authority to permit graduate interns:

1. In 17 states and the District of Columbia (35%) school boards are clearly authorized to permit graduate interns in their schools. These states are as follows:

Arizona

Kansas

North Dakota

California

Kentucky

South Dakota

Colorado

Maryland

Washington

Connecticut

Mississippi

West Virginia

Florida

Nevada

Wyoming

Illinois

New Jersey

2. In 2 states (4%) school boards are authorized by state department intern certificates to permit graduate interns. These states are as follows:

Delaware

Wisconsin

3. In 4 states (8%) school boards are encouraged to accept graduate interns through state department of education guidelines. These states are as follows:

Georgia

Hawaii

Pennsylvania

Rhode Island

4. In 2 states (4%) school boards are authorized to permit graduate interns by constitutional statements. These states are as follows:

Alabama

Virginia

5. In the remaining 25 states (49%) no evidence was found which authorized school boards to accept graduate interns in the public schools.

Concerning preliminary teaching certificates for student teachers:

1. In 11 states (22%) student teachers are permitted/required to hold some form of preliminary teaching certificate. These states are as follows:

Alaska (authorization letter)	Minnesota (if employed)
California	New Jersey (discretionary)
Delaware (if employed)	Rhode Island
Kansas	Utah
Hawaii	Wisconsin (if employed)
	Wyoming

2. In the remaining 39 states and the District of Columbia (76%) student teachers are not required to hold some form of a preliminary teaching certificate.

Concerning preliminary teaching certificates for undergraduate aides:

1. In 2 states (4%) undergraduate aides are permitted/required to hold some form of preliminary teaching certificate.

These states are as follows:

California

New Jersey (discretionary)

2. In the remaining 48 states and the District of Columbia (96%) undergraduate aides are not required to hold some form of preliminary teaching certificate.

Concerning preliminary certificates for graduate interns:

1. In 5 states (10%) graduate interns are permitted/required to hold some form of preliminary certificate. These states are as follows:

California

New Jersey

Delaware (if employed)

Wisconsin (if employed)

Minnesota (if employed)

2. In the remaining 45 states and the District of Columbia (90%) graduate interns are not required to hold some form of preliminary certificate.

Concerning student teachers being employees:

1. In 7 states (14%) student teachers are considered to be employees of the local board of education. These states are as follows:

California (limited)	North Dakota (limited)
Colorado (limited)	Utah
Hawaii (limited)	Wyoming (limited)
Nevada (limited)	

2. In 8 states and the District of Columbia (18%) student teachers are not considered employees of the local board of education. These states are as follows:

Indiana	New Jersey
Iowa	New Mexico
Kentucky	Virginia
Maryland	West Virginia

3. In 35 states (68%) no evidence was found concerning whether or not student teachers are considered employees.

Concerning undergraduate aides being employees:

1. In 4 states (8%) undergraduate aides are considered to be employees of the local board of education. These states are as follows:

Colorado (limited)	Nevada (limited)
Hawaii (limited)	Wyoming (limited)

2. In 4 states and the District of Columbia (10%) undergraduate aides are not considered to be employees of the local board of education. These states are as follows:

Indiana

Maryland

Iowa

Virginia

3. In the remaining 42 states (82%) no evidence was found addressing the question of whether or not undergraduate aides are considered to be employees of the local board of education.

Concerning graduate interns being employees:

1. In 4 states (8%) graduate interns are considered to be employees of the local board of education. These states are as follows:

Colorado (limited)

Nevada (limited)

Hawaii (limited)

Wyoming (limited)

2. In 2 states (4%) graduate interns are not considered to be employees of the local board of education. These states are as follows:

Indiana

Maryland

3. In the remaining 44 states and the District of Columbia (88%) no evidence was found addressing the question of whether or not graduate interns are considered to be employees of the local board of education.

Concerning student teachers receiving financial compensation:

1. In 5 states (10%) student teachers may receive financial compensation during their clinical experience. These states are as follows:

California	Florida
Colorado	Minnesota
	Wisconsin

2. In 4 states and the District of Columbia (10%) student teachers may not receive financial compensation during their clinical experience. These states are as follows:

Kansas	Missouri
Kentucky	Virginia

3. In the remaining 41 states (80%) no evidence was found addressing the question of whether or not student teachers may receive financial compensation during their clinical experience.

Concerning undergraduate aides receiving financial compensation:

1. In 4 states (8%) undergraduate aides may receive financial compensation during their clinical experience. These states are as follows:

California	Florida
Colorado	Wisconsin

2. In the District of Columbia (2%) undergraduate aides may not receive financial compensation during their clinical experience.

3. In the remaining 46 states (90%) no evidence was found addressing the question of whether or not undergraduate aides may receive financial compensation during their clinical experience.

Concerning graduate interns receiving financial compensation:

1. In 6 states (12%) graduate interns may receive financial compensation during their clinical experience. These states are as follows:

California	Illinois
Colorado	New Hampshire
Florida	Wisconsin

2. In the District of Columbia (2%) graduate interns may not receive financial compensation during their clinical experience.

3. In the remaining 44 states (86%) no evidence was found addressing the question of whether or not graduate interns may receive financial compensation during their clinical experience.

Concerning student teachers receiving workmen's compensation:

1. In 5 states (10%) student teachers are eligible for workmen's compensation. These states are as follows:

California	Maryland
Colorado	Minnesota
	Nevada

2. In 15 states and the District of Columbia (31%) student teachers are possibly eligible for workmen's compensation. These states are as follows:

Arkansas	Louisiana	North Dakota
Florida	Mississippi	Oklahoma
Hawaii	Montana	Tennessee
Idaho	Nebraska	Utah
Kentucky	North Carolina	Wisconsin

3. In 2 states (4%) student teachers are not eligible for workmen's compensation. These states are as follows:

New Jersey

Virginia

4. In the remaining 28 states (55%) no evidence was found addressing the question of whether or not student teachers are eligible for workmen's compensation benefits.

Concerning undergraduate aides receiving workmen's compensation:

1. In 4 states (8%) undergraduate aides are eligible for workmen's compensation. These states are as follows:

Colorado

Nevada

Maryland

Wyoming

2. In 5 states and the District of Columbia (12%) undergraduate aides are possibly eligible for workmen's compensation.

These states are as follows:

Hawaii

Mississippi

Louisiana

Nebraska

Wisconsin

3. In the remaining 41 states (80%) no evidence was found addressing the question of whether or not undergraduate aides are eligible for workmen's compensation benefits.

Concerning graduate interns receiving workmen's compensation:

1. In 4 states (8%) graduate interns are eligible for workmen's compensation. These states are as follows:

Colorado	Nevada
Maryland	Wyoming

2. In 5 states and the District of Columbia (12%) graduate interns are possibly eligible for workmen's compensation. These states are as follows:

Hawaii	Mississippi
Louisiana	Nebraska
	Wisconsin

3. In the remaining 41 states (80%) no evidence was found addressing the question of whether or not graduate interns are eligible for workmen's compensation benefits.

Concerning student teachers receiving due process:

1. In 6 states and the District of Columbia (14%) student teachers are afforded due process. These states are as follows:

California	Nevada
Iowa	North Carolina
Indiana	Rhode Island

2. In 11 states (22%) student teachers should possibly receive due process. These states are as follows:

Arkansas	Kentucky	North Dakota
Colorado	Mississippi	Oklahoma
Florida	Montana	Tennessee
Hawaii		Utah

3. In 1 state (2%) student teachers are not afforded due process. The state is as follows:

Texas

4. In the remaining 32 states (63%) no evidence was found addressing the question of whether or not student teachers are afforded due process if dismissed from their clinical experience.

Concerning undergraduate aides receiving due process:

1. In 1 state (2%) undergraduate aides are afforded due process. This state is as follows:

Indiana

2. In 4 states and the District of Columbia (10%) undergraduate aides should possibly receive due process. These states are as follows:

Colorado Hawaii

Florida Mississippi

3. In the remaining 45 states (88%) no evidence was found addressing the question of whether or not undergraduate aides are afforded due process.

Concerning graduate interns receiving due process.

1. In 4 states (8%) graduate interns should possibly receive due process. These states are as follows:

Colorado Hawaii

Florida Mississippi

2. In the remaining 46 states and the District of Columbia (92%) no evidence was found addressing the question of whether or

not graduate interns are afforded due process.

Concerning guidelines for student teachers if a strike occurs:

1. In 3 states (6%) there are guidelines for student teachers if a strike or other work stoppage occurs. These states are as follows:

Delaware

Iowa

Wisconsin

2. In the remaining 47 states and the District of Columbia (94%) no evidence was found showing any guidelines for student teachers in the event of a teacher strike or other work stoppage.

Concerning guidelines for undergraduate aides if a strike occurs:

1. In 1 state (2%) there are guidelines for undergraduate aides if a strike or other work stoppage occurs. The state is as follows:

Wisconsin

2. In the remaining 49 states and the District of Columbia (98%) no evidence was found showing any guidelines for undergraduate aides in the event of a teacher strike or other work stoppage.

Concerning guidelines for graduate interns if a strike occurs:

1. In 1 state (2%) there are guidelines for graduate interns if a strike or other work stoppage occurs. The state is as follows:

Wisconsin

2. In the remaining 49 states and the District of Columbia (98%) no evidence was found showing any guidelines for graduate interns in the event of a teacher strike or other work stoppage.

Concerning the student teacher's authority to teach without supervision:

1. In 5 states (10%) student teachers have authority to teach without direct supervision. These states are as follows:

Delaware	Indiana
Illinois	New York
	North Dakota

2. In 4 states (8%) student teachers do not have authority to teach without direct supervision. These states are as follows:

California	Nevada
Kentucky	Virginia

3. In the remaining 41 states and the District of Columbia (82%) no evidence was found answering the question of whether or not student teachers have authority to teach without direct supervision.

Concerning the undergraduate aide's authority to aid without supervision:

1. In 50 states and the District of Columbia (100%) no evidence was found answering the question of whether or not undergraduate aides have the authority to aid without direct supervision.

Concerning the graduate intern's authority to assume duties without supervision:

1. In 50 states and the District of Columbia (100%) no evidence was found answering the question of whether or not graduate interns have the authority to assume duties without direct supervision.

Concerning student teachers disciplining pupils:

1. In 4 states (8%) student teachers have the authority to discipline pupils by administering corporal punishment. These states are as follows:

Maryland (Baltimore exempt) North Dakota

North Carolina West Virginia

2. In 10 States (20%) student teachers possibly have the authority to discipline pupils by administering corporal punishment.

These states are as follows:

Arkansas Missouri

Florida Montana

Iowa Nebraska

Kentucky Oklahoma

Mississippi Tennessee

3. In 3 states and the District of Columbia (8%) student teachers do not have the authority to discipline pupils by administering corporal punishment. These states are as follows:

Massachusetts

Nevada

New Jersey

4. In the remaining 33 states (65%) no evidence was found answering the question of whether or not student teachers have the authority to discipline pupils by administering corporal punishment.

Concerning undergraduate aides disciplining pupils:

1. In 4 states (8%) undergraduate aides possibly have the authority to discipline pupils by administering corporal punishment.

These states are as follows:

Florida

Nebraska

Mississippi

North Carolina

2. In 2 states and the District of Columbia (4%) undergraduate aides do not have the authority to discipline pupils by administering corporal punishment. These states are as follows:

Massachusetts

New Jersey

3. In the remaining 44 states (86%) no evidence was found answering the question of whether or not undergraduate aides have the authority to discipline pupils by administering corporal punishment.

Concerning graduate interns disciplining pupils:

1. In 3 states (6%) graduate interns possibly have the authority to discipline pupils by administering corporal punishment.

These states are as follows:

Florida

Mississippi

Nebraska

2. In 2 states and the District of Columbia (4%) graduate interns do not have the authority to discipline pupils by administering corporal punishment. These states are as follows:

Massachusetts

New Jersey

3. In the remaining 45 states (88%) no evidence was found answering the question of whether or not graduate interns have the authority to discipline pupils by administering corporal punishment.

Concerning student teacher liability for pupil injuries:

1. In 2 states (4%) student teachers have liability protection as they are treated as employees for this purpose. These states are as follows:

Arkansas

Idaho

2. In 15 states (29%) student teachers must be given liability protection. These states are as follows:

Arizona	Illinois	New Jersey
California	Iowa	New York
Colorado	Kansas	North Dakota
Connecticut	Maryland	Utah
Hawaii	Massachusetts	Wyoming

3. In 6 states (12%) student teachers may be given liability protection. These states are as follows:

Florida	Nevada
Indiana	North Carolina
Minnesota	Wisconsin

4. In 1 state (2%) student teachers may not be given liability protection. This state is as follows:

Virginia

5. In the remaining 26 states and the District of Columbia (53%) no evidence was found answering the question of whether or not student teachers are covered by liability protection.

Concerning undergraduate aide liability for pupil injuries:

1. In 4 states (8%) undergraduate aides must be given liability protection. These states are as follows:

Colorado **Hawaii**

Connecticut **Maryland**

2. In 2 states (4%) undergraduate aides may be covered by liability protection. These states are as follows:

Indiana

Wisconsin

3. In the remaining 44 states and the District of Columbia (88%) no evidence was found answering the question of whether or not undergraduate aides are covered by liability protection.

Concerning graduate intern liability for pupil injuries:

1. In 4 states (8%) graduate interns must be given liability protection. These states are as follows:

Connecticut **Maryland**

2. In 2 states (4%) graduate interns may be covered by liability protection. These states are as follows:

Indiana

Wisconsin

3. In the remaining 44 states and the District of Columbia (88%) no evidence was found answering the question of whether or not graduate interns are covered by liability protection.

Concerning student teachers serving as substitute teachers:

1. In 9 states and the District of Columbia (20%) student teachers may serve as substitute teachers/receive payment. These states are as follows:

Connecticut/\$No	Iowa (limited)/\$No	Pennsylvania (limited)/\$No
Delaware/\$Yes	Indiana/\$?	South Carolina/ \$No
Georgia/\$?	New Jersey/\$?	Tennessee/\$?

2. In 6 states (12%) student teachers may not serve as substitute teachers. These states are as follows:

Illinois	Maryland
Kansas	Rhode Island
Kentucky	Wisconsin

3. In the remaining 35 states (68%) no evidence was found answering the question of whether or not student teachers may serve as substitute teachers.

Concerning undergraduate aides serving as substitute teachers:

1. In 1 state (2%) undergraduate aides might be able to serve as substitute teachers/receive payment. The state is as follows:

Delaware

2. In 7 states (14%) undergraduate aides probably would not be able to serve as substitute teachers. These states are as follows:

Florida

Kentucky

Illinois

Maryland

Kansas

Rhode Island

Wisconsin

3. In the remaining 42 states and the District of Columbia (84%) no evidence was found answering the question of whether or not undergraduate aides may serve as substitute teachers.

Concerning graduate interns serving as substitute teachers:

1. In 3 states (6%) graduate interns may serve as substitute teachers/receive payment. These states are as follows:

Delaware/\$Yes

New York/\$Yes

Wisconsin/\$?

2. In the remaining 47 states and the District of Columbia (94%) no evidence was found answering the question of whether or not graduate interns may serve as substitute teachers.

Concerning student teachers having access to pupil records:

1. In 2 states (4%) student teachers may have access to pupil records. These states are as follows:

Maryland

North Dakota

2. In the remaining 48 states and the District of Columbia (96%) no evidence was found answering the question of whether or not student teachers may have access to pupil records.

Concerning undergraduate aides and graduate interns having access to pupil records:

1. In 50 states and the District of Columbia (100%) no evidence was found answering the question of whether or not undergraduate aides and graduate interns may have access to pupil records.

Recommendations

An analysis of the findings based on state statutes, court decisions, opinions of attorneys general or superintendent interpretations, state department of education rules and regulations, and the written policies of the largest public teacher training institutions of each state that affect student teachers, undergraduate aides and graduate interns has led to the overall conclusion that comprehensive legislation should be enacted by every state. This comprehensive legislation should include definitive statements concerning the following topics:

1. Authority to permit student teachers, undergraduate aides, and graduate interns in the public schools.
2. Certification requirements of student teachers, undergraduate aides, and graduate interns.
3. Employee status of student teachers, undergraduate aides, and graduate interns during their clinical experience.
4. Financial compensation for student teachers, undergraduate aides, and graduate interns during their clinical experience.
5. Workmen's compensation benefits for student teachers, undergraduate aides, and graduate interns during their clinical experience.
6. Due process for student teachers, undergraduate aides, and graduate interns during their clinical experience.
7. Teacher strikes/work stoppages and student teachers, undergraduate aides and graduate interns.
8. Authority to teach, aid, or assume duties by student teachers, undergraduate aides, and graduate interns without constant, immediate and direct supervision.
9. Discipline of pupils by student teachers, undergraduate aides, and graduate interns.
10. Liability of injuries to pupils by student teachers, undergraduate aides and graduate interns.

11. Use of student teachers, undergraduate aides and graduate interns as paid substitutes.
12. Access to pupil records by student teachers, undergraduate aides and graduate interns.

Chapter 5

DESIGN OF A MODEL STATUTE

Based on the findings of this study, legislation is recommended to provide definitive guidelines for educational clinical experiences in the public schools for student teachers, undergraduate aides and graduate interns. It must be recognized that this model statute reflects the philosophy of the writer and is intended only as a guide. Each state will most likely want to make changes in terms of title, structure and value judgments depending upon their legal, philosophical and educational needs and circumstances.

Proposed Legislation

Clinical experiences for students of teacher education institutions.

Definitions. For the purposes of this act, the following definitions apply:

"Student Teacher" means a student who has completed the prerequisite teacher preparation program for entry into the clinical experience component as prescribed by the State Board of Education accredited teacher education institution in which he/she is enrolled, and who is jointly assigned by the institution and a local school district to engage in a clinical experience under the direction and supervision of the administrative and teaching staff of the school district and the institution.

"Undergraduate Aide" shall be defined as observing and participating done by a freshman/sophomore/junior student preparing for teaching under the direction of a cooperating teacher as a part of the pre-service program offered by a teacher education institution.

"Graduate Intern" shall be defined as observation and participation by a student preparing for a graduate degree within a school setting under the direction of an administrator, guidance counselor, librarian, or other public school personnel.

The State Board of Education shall provide through reasonable rules and regulations for the utilization of the public schools for the preparation of undergraduate and graduate education students from the colleges and universities.

Within these provisions the local school boards of education are authorized to enter into written contractual agreement providing for professional clinical experiences for students of State Board of Education accredited teacher education institutions.

A student teacher, undergraduate aide, or graduate intern assigned under such agreement by the teacher education institution and a local board of education shall be exempt from State Board of Education certification requirements and shall have the same legal status and protection of the laws as that of a regular certified teacher employed within the school system. This protection of the laws shall include written due process if dismissed from the clinical experience by the local board of education or its agents. The state

indemnification statutes shall include and protect the student teacher, undergraduate aide and graduate intern as they include and protect the employed certified teacher.

The student teacher, undergraduate aide and graduate intern shall have full and complete access to pupil records. The protection of the laws is specifically limited by the following:

1. The student teacher, undergraduate aide, and graduate intern shall be subject to the direction and supervision of the professional administrative and teaching staff of the school district. This section is not to be interpreted as requiring constant, immediate and direct supervision regarding every activity within the clinical experience.

2. Under normal circumstances a student teacher, undergraduate aide, or graduate intern shall be ineligible to receive financial compensation during his/her clinical experience.

3. Under normal circumstances student teachers, undergraduate aides, or graduate interns shall be ineligible for state workmen's compensation benefits.

4. Student teachers, undergraduate aides and graduate interns shall not be placed in their respective clinical experience roles, or any other roles, within the public schools in the event of a teacher strike or other work stoppage.

5. Student teachers, undergraduate aides and graduate interns shall not administer, or be directed to administer, any form of corporal punishment to any pupil.

6. Under normal circumstances student teachers, undergraduate aides and graduate interns shall not be used as substitute teachers.

Due to the ever-changing nature of teacher programs in the United States it is recommended that the questions analyzed within this study be re-examined at a later date.

BIBLIOGRAPHY

Legal Research Aids

American Digest System. St. Paul, Minnesota: West Publishing Company.
Century Digest. 1903. Digest of all reported cases from 1658 to 1896.

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

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

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

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

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

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

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

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

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

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

Black's Law Dictionary. (Revised 4th ed.) Edited by Henry C. Black. St. Paul, Minnesota: West Publishing Company, 1969.

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

National Reporter System. St. Paul, Minnesota: West Publishing Company. 1879 and published to present:

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

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

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

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

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

The North Eastern Supplement. Reports decisions of the courts of last resort of Illinois, Indiana, Massachusetts, New York, and Ohio from 1885 to present.

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

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

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

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

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

State Statutes Consulted

Alabama, Alabama Code.

Alaska, Alaska Statutes.

Arizona, Arizona Revised Statutes.

Arkansas, Arkansas Statutes.

California, West's Annotated California Codes.

Colorado, Colorado Revised Statutes.

Connecticut, General Statutes of Connecticut.

Delaware, Delaware Code.

District of Columbia, District of Columbia Code.

Florida, Florida Statutes.

Georgia, Code of Georgia.

Hawaii, Hawaii Revised Statutes.

Idaho, Idaho Code.

Illinois, Illinois Revised Statutes.

Indiana, Indiana Code.

Iowa, Code of Iowa.

Kansas, Kansas Statutes, Annotated.

Kentucky, Kentucky Revised Statutes.

Louisiana, Louisiana Revised Statutes.

Maine, Maine Revised Statutes, Annotated.

Maryland, Maryland School Law.

Massachusetts, Massachusetts General Laws, Annotated.

Michigan, Michigan Compiled Laws, Annotated.

Minnesota, Minnesota Statutes.

Mississippi, Mississippi Code.

Missouri, Missouri Revised Statutes.

Montana, Montana Revised Code.

Nebraska, Revised Statutes of Nebraska.

Nevada, Nevada Revised Statutes.

New Hampshire, New Hampshire Revised Statutes, Annotated.

New Jersey, New Jersey Revised Statutes.

New Mexico, New Mexico Statutes.

New York, Education Law.

North Carolina, General Statutes of North Carolina.

North Dakota, North Dakota Century Code.

Ohio, Ohio Revised Code, Annotated.

Oklahoma, Oklahoma Statutes.

Oregon, Oregon Revised Statutes.

Pennsylvania, Pennsylvania School Law.

Rhode Island, Rhode Island General Laws.

South Carolina, Code of Laws of South Carolina.

South Dakota, South Dakota Compiled Laws.

Tennessee, Tennessee Code.

Texas, Vernon's Texas Statutes.

Utah, Utah Code, Annotated.

Vermont, Vermont Statutes, Annotated.

Virginia, Virginia School Laws.

Washington, Revised Code of Washington.

West Virginia, Michie's West Virginia Code.

Wisconsin, Wisconsin Statutes.

Wyoming, Wyoming Statutes.

Cases Cited

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

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

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

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

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

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

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

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

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

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

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

Leddy v. Cornell, 120 P. 153 (1912).

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

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

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

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

Smith v. Jackson, Civil Action No. C-70-1192-RFP.

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

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

Stovall v. Solomon, La. App. 94 So.2d 551 (1957).

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

Valley National Bank of Phoenix v. Glover, 159 P.2d 292 (1945).

Attorney General's Opinions

Delaware. Attorney General's Opinion 82. Attorney General's Opinion, Request No. S-296, October 19, 1972.

Kansas. Attorney General's Opinion, Kent Frizzell, Attorney General to David W. Kester, November 10, 1969.

Kentucky. Attorney General's Opinion, 63-269, April 2, 1963.

Virginia. Attorney General's Opinion, Andrew P. Miller, Attorney General to George H. Heilig, Jr., from May 13, 1976.

Interviews

California. Griffin, Thomas G. Telephone interview. Sacramento, California, June 14, 1976.

Idaho. Evans, Jerry. Telephone interview. Boise, Idaho, June 14, 1976.

Utah. McHenry, Vere A. Telephone interview. Salt Lake City, Utah, May 25, 1976.

Letters Cited

Alabama. Assistant State Superintendent of Education. Personal correspondence between Erskine S. Murray, and the writer, June 18, 1976.

Colorado. Director of Teacher Education and Certification. Personal correspondence between Otto G. Ruff, and the writer, August 23, 1976.

District of Columbia. Legal Counsel to the Superintendent. Personal correspondence between George H. Margolies, and the writer, October 15, 1976.

Hawaii. Personnel Certification and Development. Personal correspondence between Winona L. Chang, Staff Specialist, and the writer, April 20, 1976.

Kansas. Correspondence between Gene Seifert, Assistant Superintendent of Emporia Unified District No. 253 and David W. Kester, Departmental Attorney, November 18, 1969.

Maine. Director of Teacher Certification/Placement. Personal correspondence between J. Wilfrid Morin, and the writer, May 26, 1976.

Massachusetts. Legal Office. Personal correspondence between Joseph Robinson, and the writer, April 27, 1976.

New Hampshire. Office of Teacher Education and Professional Standards. Personal correspondence between Harvey Harkness, Director, and the writer, May 12, 1976.

New Jersey. Bureau of Teacher Education and Academic Credentials. Personal correspondence between Fred A. Price, Director, and the writer, August 31, 1976.

Rhode Island. Coordinator of Regulatory Functions. Personal correspondence between Patrick F. McCarthy, and the writer, April 27, 1976.

Virginia. Assistant Superintendent for Professional and Educational Support Services. Personal correspondence between Ryland Dishner, and the writer, April 19, 1976.

Wisconsin. Legal Counsel to the Deputy State Superintendent. Personal correspondence between Kathryn Daut, and the writer, June 16, 1976.

Wyoming. Wyoming State Department of Education. Personal correspondence between Barbara A. Erickson, attorney, and the writer, September 9, 1976.

Published Sources Cited

Books

Abraham, Henry J. The Judiciary. 3d ed. Boston: Allyn and Bacon, 1973.

_____. The Judicial Process. 2d ed. New York: Oxford University Press, 1963.

Alexander, Kern. Law and the Kentucky Teacher. Bloomington: Beanblossom, 1966.

_____, and Erwin S. Solomon. College and University Law. Charlottesville: Michie, 1972.

_____, Ray Corns and Walter McCann. Public School Law. St. Paul: West Publishing, 1969.

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

Anderson, Bobby D. The Law and the Teacher in Mississippi. Jackson: University Press of Mississippi, 1975.

Bolmeier, E. C. The School in the Legal Structure. 2d ed. Cincinnati: W. H. Anderson, 1975.

Cataldo, Barnard F. Introduction to Law and the Legal Process. 2d ed. New York: John Wiley and Sons, 1973.

Cohen, Morris L. Legal Research in a Nutshell. St. Paul: West Publishing Company, 1971.

- Edwards, Newton. The Courts and the Public Schools. Chicago: University of Chicago Press, 1955.
- Farnsworth, E. Allen. An Introduction to the Legal System of the United States. New York: Oceana Publications, 1963.
- Gatti, Richard D. and Daniel J. Gatti. Encyclopedic Dictionary of School Law. West Nyack, New York: Parker, 1975.
- Gray, John Chipman. The Nature and Sources of the Law. 2d ed. Gloucester: Peter Smith, 1972.
- Hazard, William R. Student Teaching and the Law. Washington, D.C.: ERIC Clearinghouse on Teacher Education, 1976.
- Hoffman, Earl. "Student Teaching and the Law," Teacher Education: Trends, Issues, Innovations, eds. Lowell Horton and Phyllis Horton. Danville, Illinois: Interstate Printers and Publishers, 1974.
- Levine, Alan, Eve Cary, and Diane Divoky. The Rights of Students, The Basic A.C.L.U. Guide to Student's Rights. New York: Avon Books, 1973.
- Mead, Arthur Raymond. Supervised Student-Teaching. Richmond: Johnson Publishing Company, 1930.
- National Association of Attorneys General. The Office of the Attorney General. 1971.
- National Organization on Legal Problems of Education. Critical Issues in School Law. Topeka: National Organization on Legal Problems of Education, 1970.
- Nolte, M. Chester, and John P. Linn. School Law for Teachers. Danville, Illinois: Interstate Printers and Publishers, 1966.
- Sietz, Reynolds C. Law and the School Principal. Cincinnati: W. H. Anderson, 1961.
- Smith, Michael R. Law and the North Carolina Teacher. Danville, Illinois: Interstate Printers and Publishers, 1975.
- Stinnett, T. M. A Manual on Standards Affecting School Personnel in the United States. Washington, D.C.: National Education Association, 1974.
- Swalls, Fred. Legal Aspects of Student Teaching. Danville, Illinois: Interstate Printers and Publishers, 1966.

Swalls, Fred. The Law on Student Teaching in the United States. Danville, Illinois: Interstate Printers and Publishers, 1976.

Wiggins, Sam P. The Student Teacher in Action. Boston: Allyn and Bacon, 1947.

Woellner, E. H. Requirements for Certification. Chicago: University of Chicago Press, 1974.

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

Periodicals Cited

Alexander, Kern. "Tort Predictions." Nation's Schools, 87, No. 3 (March, 1975), 55-57.

Andrews, L. O. "State and Federal Aid for Student Teaching Now?" The Journal of Teacher Education, 15 (June, 1964), 165-174.

Brink, William G. "The Administration of Student Teaching in Universities Which Use Public Schools." Educational Administration and Supervision, 31 (October, 1945), 394-402.

Federal Register, 41, No. 118 (June 17, 1976).

Horton, Lowell. "Strikes, Sanctions, and the Student Teacher." Contemporary Education, 43 (October, 1971), 38-39.

. "Teacher Strikes: What Should the Student Teacher Do?" Journal of Teacher Education, 25 (Spring 1974), 74-75.

Longstreth, Larry E. and Bob L. Taylor. "Student Teaching--A Legal Vacuum." Journal of Teacher Education, 12 (Spring 1971), 48-50.

Mead, Arthur Raymond. "Legal Status of Laboratory Schools and Teacher Education Laboratory Practices." The Journal of Teacher Education, 8 (December, 1957), 356-364.

Tiezen, D. W. and Charles Foreman. "Legal Responsibilities of the Student Teacher." The Journal of Teacher Education, 11 (November, 1960), 442.

Tiezen, D. W. and Charles Foreman. "Student Teaching--Some Legal Considerations." The Journal of Teacher Education, 12 (June, 1961), 216-218.

Unpublished Sources Cited

Barkley, David Stanford. "The Legal Status of Student Teaching." Unpublished Doctoral dissertation, Duke University, Durham, North Carolina, 1959.

Farmer, Donald E. "The Legal Status of Student Teaching in Forty Selected States." Unpublished Doctoral dissertation, University of Kansas, Lawrence, Kansas, 1965.

Howerton, Thomas Merle. "Selected Statutes and Policies of Diverse States Pertaining to Student Teachers, Interns, and Aides with Analysis of Statutes and Recommended Model Legislation." Unpublished Doctoral dissertation, University of Northern Colorado, Greeley, Colorado, 1971.

Johnston, Stanley L. "The Legal Aspects of Student Teaching." Unpublished Doctoral dissertation, University of North Dakota, Grand Forks, North Dakota, 1964.

Jones, Franklin B. "Legal Aspects of Student Teaching in the United States." Unpublished Doctoral dissertation, University of Mississippi, University, Mississippi, 1967.

Karakas, Louis John. "The Legal Status of Student Teachers in North Dakota." Unpublished Doctoral dissertation, University of North Dakota, Grand Forks, North Dakota, 1969.

Rose, Carl. Compiler. "Providing Legal Status for Student Teachers." Washington, D.C.: Association of Teacher Educators, 1974.

Ruff, Otto G. "Implementation of the Cooperative Teacher Education Act of 1973," 1973.

Sorensen, Diane C. "A Rationale and Proposal for: The Colorado Teacher Education Act of 1972." 1971.

State Department of Education Officials
Who Contributed Information

Alabama. Department of Education, Montgomery, Alabama. Erskine S. Murray, Assistant State Superintendent of Education.

Alaska. Department of Education, Juneau, Alaska. Kenneth C. Gaiser, Deputy Director, Management Law & Finance.

Arizona. Arizona Department of Education, Phoenix, Arizona. Michael J. Miller, Administrative Assistant, General Operations Division Services.

Carolyn Warner, Superintendent

Arkansas. Department of Education, Little Rock, Arkansas. Austin Z. Hanner, Coordinator, Teacher Education & Certification.

California. Department of Education, Sacramento, California. Rebecca Davis, Legal Assistant.

Thomas M. Griffin, Chief Counsel.

Colorado. Colorado Department of Education, Denver, Colorado. Otto G. Ruff, Director, Teacher Education & Certification.

Connecticut. State Department of Education, Hartford, Connecticut.

Ron Harris, Legal Consultant.

Jack Muraskin, Legal Consultant.

Delaware. Department of Public Instruction, Dover, Delaware. Howard E. Row, Assistant State Superintendent.

District of Columbia. Public Schools of the District of Columbia, Washington, D.C. George H. Margolies, Legal Counsel to the Superintendent.

Florida. Department of Education, Tallahassee, Florida. Woodrow J. Darden, Director, Division of Public Schools.

James A. Kemp, Consultant, Education Information Services.

Burke B. Scisson, Specialist, District Management.

Georgia. Department of Education, Atlanta, Georgia. Gene Bottoms, Director, Division of Program & Staff Development.

Joe Edwards, Deputy State Superintendent of Schools.

Jerrell E. Lopp, Consultant, Teacher Education.

Hawaii. Department of Education, Honolulu, Hawaii. Winona L. Chang, Staff Specialist, Personnel Certification & Development.

Charles Kitoaka, Administrator, Certificated Personnel Management.

Idaho. Department of Education, Boise, Idaho. Jerry L. Evans, Deputy State Superintendent.

Illinois. Illinois Office of Education, Springfield, Illinois. Susan K. Bentz, Secretary, State Teacher Certification Board (Chicago Office).

Joseph M. Cronin, State Superintendent of Education.

Julia Quinn Dempsey, Legal Advisor (Chicago office).

Margaret M. McDonnell, Assistant Legal Advisor (Chicago Office).

Indiana. Department of Public Instruction, Indianapolis, Indiana.
F. Bradford Johnson, Administrative Assistant.

Iowa. Department of Public Instruction, Des Moines, Iowa. Larry D.
Bartlett, Administrative Consultant.

Kansas. State Department of Education, Topeka, Kansas. David W.
Kester, Departmental Attorney.

Kentucky. Department of Education, Frankfort, Kentucky. William C.
Sanders, Assistant Director, Division of Teacher Education & Cer-
tification.

Louisiana. Department of Education, Baton Rouge, Louisiana. Office
of Higher Education & Teacher Certification.

Maine. Department of Educational & Cultural Services, Augusta, Maine.
J. Wilfrid Morin, Director, Teacher Certification/Placement.

Maryland. Maryland State Department of Education, Baltimore, Maryland.
Quentin L. Earhart, Deputy State Superintendent.

Massachusetts. Department of Education, Boston, Massachusetts. Joseph
Robinson, Legal Office.

Michigan. Department of Education, Lansing, Michigan. Thomas J.
Schrauber, Coordinator, Teacher Certification.

Minnesota. Department of Education, St. Paul, Minnesota. Farley D.
Bright, Deputy Commissioner.
George B. Droubie, Director, Teacher Certification & Placement.

Mississippi. State Department of Education, Jackson, Mississippi.
Ralph Brewer, Director, Division of Instruction.
R. Crider, Division of Instruction.

Missouri. Department of Elementary and Secondary Education, Jefferson
City, Missouri. Kent G. Barber, Director, School Laws.
Henry Givens, Jr., Assistant Commissioner, Urban & Teacher
Education.
R. V. Wilson, Assistant Director, Teacher Education & Certifi-
cation.

Montana. Office of the State Superintendent, Helena, Montana. Harold
W. Rehmer, Deputy Superintendent.
John R. Voorhis, Supervisor, Teacher Education & Certification.

Nebraska. Nebraska Department of Education, Lincoln, Nebraska. Glen
E. Shafer, Administrator, Teacher Certification.

Nevada. Nevada Department of Instruction, Carson City, Nevada. Robert L. Lloyd, Executive Assistant.

New Hampshire. Department of Education, Concord, New Hampshire. Harvey Harkness, Director, Office of Teacher Education & Professional Standards.

New Jersey. Department of Education, Trenton, New Jersey. Richard W. Brown, Assistant Director, Bureau of Teacher Education & Academic Credentials.

Fred A. Price, Director, Bureau of Teacher Education & Academic Credentials.

New Mexico. Department of Education, Santa Fe, New Mexico. Jim Pierce, Director, Teacher Education & Certification.

New York. The State Education Department, Albany, New York. William E. Boyd, Chief, Bureau of Teacher Education.

North Carolina. Department of Public Instruction, Raleigh, North Carolina. H. M. Eldridge, Consultant, Division of Teacher Education.
Samuel D. Hill, Deputy Assistant State Superintendent.

North Dakota. Department of Public Instruction, Bismarck, North Dakota.
M. F. Peterson, Superintendent.

Ohio. Department of Education, Columbus, Ohio. Paul E. Spayde, Assistant Superintendent.

Oklahoma. Department of Education, Oklahoma City, Oklahoma. Ronald Carpenter, Administrator, Teacher Education Section.
Stan Colde, Administrator, Teacher Education Section.

Oregon. Teacher Standards and Practices Commission, Salem, Oregon.
David V. Myton, Coordinator of Teacher Education.

Pennsylvania. Department of Education, Harrisburg, Pennsylvania.
William D. Kautz, Chief, Division of Teacher Education, Bureau of Academic Programs.

Rhode Island. Department of Education, Providence, Rhode Island.
Patrick F. McCarthy, Coordinator of Regulatory Functions.
David R. Roy, Consultant, Teacher Certification.

South Carolina. Department of Education, State of South Carolina. John F. Maynard, Director, Office of Teacher Education & Certification.

South Dakota. Department of Education and Cultural Affairs, Pierre, South Dakota. L. N. Pier, Director, Teacher Education & Certification.

Tennessee. Higher Education Commission, Nashville, Tennessee. John Harris, Assistant Director for Academic Affairs.

Texas. Texas Education Agency, Austin, Texas. Thomas E. Ryan, Chief Consultant, Division of Teacher Education.

Utah. Utah State Board of Education, Salt Lake City, Utah. Vere A. McHenry, Administrator, Division of Instructional Support Services. Walter D. Talbot, State Superintendent.

Vermont. Department of Education, Montpelier, Vermont. Stephen L. Brandwene, General Counsel.

Virginia. State Department of Education, Richmond, Virginia. Ryland Dishner, Assistant Superintendent for Professional and Educational Support Services.

Wayland H. Jones, Director, Division of Teacher Education.

Washington. Superintendent of Public Instruction, Olympia, Washington. Frank B. Brouillet, State Superintendent.

L. O. Griffith, Consultant for Administrative Services.
C. W. Iles, Supervisor of Certification.

West Virginia. Department of Education, Charleston, West Virginia. Nicholas Hoban, Director, Professional Development Systems.
Daniel B. Taylor, State Superintendent of Schools.

Wisconsin. Department of Public Instruction, Madison, Wisconsin. Kathryn Daut, Legal Counsel to Deputy State Superintendent.

Albert Moldenhauer, Program Administrator, Teacher Certification.

Wyoming. Department of Education, Cheyenne, Wyoming. Barbara A. Erickson, Attorney for the Department of Education & Special Attorney Attorney General.

Representatives/Offices of State Attorneys General
which Contributed Information

Alabama. Rosa G. Hamlett, Assistant Attorney General, State of Alabama, Montgomery, Alabama.

Alaska. Ronald W. Lorensen, Assistant Attorney General, State of Alaska, Juneau, Alaska.

Arizona. Office of the Attorney General, State of Arizona, Phoenix, Arizona.

Arkansas. Sam I. Bratton, Jr., Assistant Attorney General, State of Arkansas, Little Rock, Arkansas.

California. Office of the Attorney General, State of California, Sacramento, California.

Colorado. Jean E. Dubofsky, Deputy Attorney General, The State of Colorado, Denver, Colorado.

Connecticut. Robert E. Walsh, Assistant Attorney General, State of Connecticut. Hartford, Connecticut.

Delaware. Office of the Attorney General, State of Delaware, Dover, Delaware.

District of Columbia. Office of Legal Counsel of the District of Columbia schools was consulted--see State department section.

Florida. Robert L. Shevin, Attorney General, State of Florida, Tallahassee, Florida.

Georgia. Robert S. Stubbs, II, Chief Deputy Attorney General, State of Georgia, Atlanta, Georgia.

Hawaii. Larry L. Zenker, Assistant Attorney General, State of Hawaii, Honolulu, Hawaii.

Idaho. Wayne L. Kidwell, Attorney General, State Law Library, State of Idaho, Boise, Idaho.

Illinois. Office of the Attorney General, State of Illinois, Springfield, Illinois.

Indiana. Arthur Thaddeus Perry, Deputy Attorney General, State of Indiana, Indianapolis, Indiana.

Iowa. Office of the Attorney General, State of Iowa, Des Moines, Iowa.

Kansas. Jonathan P. Small, Assistant Attorney General, State of Kansas, Topeka, Kansas.

Kentucky. Kentucky uses State Superintendent interpretations.

Louisiana. E. Roland Charles, Staff Attorney, State of Louisiana, Baton Rouge, Louisiana.

Maine. Wanda J. Evans, Administrative Assistant, Department of the Attorney General, State of Maine, Augusta, Maine. (Refused to supply any information.)

Maryland. George A. Nilson, Deputy Attorney General, State of Maryland, Baltimore, Maryland.

Massachusetts. Ruth G. Matz, Head Librarian, Commonwealth of Massachusetts, Boston, Massachusetts.

Michigan. Office of Frank J. Kelly, Attorney General, State of Michigan, Lansing, Michigan.

Minnesota. Office of the Attorney General, State of Minnesota, St. Paul, Minnesota.

Mississippi. Mississippi uses State Superintendent interpretations.

Missouri. Office of the Attorney General, State of Missouri, Jefferson City, Missouri.

Montana. Robert L. Woodahl, Attorney General, State of Montana, Helena, Montana.

Nebraska. Harold Mosher, Assistant Attorney General, State of Nebraska, Lincoln, Nebraska.

Nevada. James H. Thompson, Chief Deputy Attorney General, State of Nevada, Carson City, Nevada.

New Hampshire. Office of Thomas D. Rath, Deputy Attorney General, State of New Hampshire, Concord, New Hampshire. (Refused to supply any information.)

New Jersey. New Jersey uses State Superintendent interpretations.

New Mexico. John A. Templemann, Assistant Attorney General, State of New Mexico, Santa Fe, New Mexico.

New York. New York uses State Superintendent interpretations.

North Carolina. Andrew A. Vanore, Jr., Senior Deputy Attorney General, State of North Carolina, Raleigh, North Carolina.

North Dakota. Gerald W. Vandewalle, Chief Deputy Attorney General, State of North Dakota, Bismarck, North Dakota.

Ohio. David H. Beaver, Director, Chief Counsel's Staff, State of Ohio, Columbus, Ohio.

Oklahoma. R. Thomas Lay, Assistant Attorney General, State of Oklahoma, Oklahoma City, Oklahoma.

Oregon. Betty J. Maudlin, Executive Assistant, Department of Justice, State of Oregon, Salem, Oregon.

Pennsylvania. Lillian B. Gaskin, Deputy Attorney General, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania.

Rhode Island. Julius C. Michaelson, Attorney General, State of Rhode Island, Providence, Rhode Island.

South Carolina. Office of the Attorney General, State of South Carolina, Columbia, South Carolina.

South Dakota. Gordon O. Hayes, Assistant Attorney General, State of South Dakota, Pierre, South Dakota.

Tennessee. C. Hayes Cooney, Chief Deputy Attorney General, State of Tennessee, Nashville, Tennessee.

Texas. Office of the Attorney General, State of Texas, Austin, Texas.

Utah. Utah uses State Superintendent interpretations.

Vermont. Office of the Attorney General, State of Vermont, Montpelier, Vermont.

Virginia. Office of the Attorney General, Commonwealth of Virginia, Richmond, Virginia.

Washington. Robert E. Patterson, Assistant Attorney General, State of Washington, Olympia, Washington.

West Virginia. West Virginia uses State Superintendent interpretations.

Wisconsin. Office of the Attorney General. State of Wisconsin, Madison, Wisconsin.

Wyoming. Barbara A. Erickson, Special Assistant Attorney General, State of Wyoming, Cheyenne, Wyoming.

Representatives/Offices of Public Teacher Training
Institutions Which Contributed Information

Alabama. Ronnie L. Stanford, Coordinator of Undergraduate Clinical Experiences, College of Education, University of Alabama, University, Alabama.

Alaska. Linda L. Henry, Secretary, School of Education, University of Alaska, Anchorage, Alaska.

- Arizona. L. H. Griffith, Acting Director Professional Field Experiences, College of Education, Arizona State University, Tempe, Arizona.
- Arkansas. Education Placement Services, College of Education, University of Arkansas, Fayetteville, Arkansas.
- California. Lenore K. Sheldon, Coordinator Assistant, Teacher Education Laboratory, University of California, Los Angeles, Los Angeles, California.
- Colorado. Robert C. Richardson, Director, Educational Field Experiences, College of Education, University of Northern Colorado, Greeley, Colorado.
- Connecticut. Donald J. Knauf, Director of Student Teaching, Southern Connecticut State College, New Haven, Connecticut.
- Delaware. Office of Clinical Studies, College of Education, University of Delaware, Newark, Delaware.
- District of Columbia. Miriam C. Everette, Director, Office of Student Teaching, District of Columbia Teachers College, Washington, D.C.
- Florida. Marcia L. Mann, Director, Internships and Field Experiences, College of Education, University of South Florida, Tampa, Florida.
- Georgia. Ronald Goldenberg, Coordinator of Student Teaching, College of Education, University of Georgia, Athens, Georgia.
- Hawaii. Ruth S. Kiehm, Office of Field Services, College of Education, University of Hawaii, Honolulu, Hawaii.
- Idaho. R. Singh, Office of Field Services, School of Education, Boise State University, Boise, Idaho.
- Illinois. Office of Clinical Experiences in Teacher Education, Illinois State University, Normal, Illinois.
- Indiana. Duaine C. Lang, Coordinator of Field Experiences, School of Education, Indiana University, Bloomington, Indiana.
- Iowa. Ray Kuehl, Director, Student Field Experiences, Department of Teaching, University of Northern Iowa, Cedar Falls, Iowa.
- Kansas. Stuart Ervay, Coordinator of Student Teaching, School of Education and Psychology, Emporia Kansas State College, Emporia, Kansas.
- Kentucky. David Watts, Director, Teacher Admissions, Certification and Student Teaching, Western Kentucky University, Bowling Green, Kentucky.

Louisiana. Coordinator of Field Experiences, Louisiana State University, Baton Rouge, Louisiana.

Maine. Director of Student Teaching, College of Education, University of Maine at Orono, Orono, Maine.

Maryland. James D. Greenberg, Interim Director, Office of Laboratory Experiences, Division of Human and Community Resources, College of Education, University of Maryland, College Park, Maryland.

Massachusetts. Richard J. Clark, Jr., Assistant Dean for Teacher Education, School of Education, University of Massachusetts, Amherst, Massachusetts.

Michigan. Keith Bailey, Department of Directed Teaching, College of Education, Western Michigan University, Kalamazoo, Michigan.

Minnesota. Gene Anderson, Director of Student Teaching, University of Minnesota, Minneapolis, Minnesota.

Mississippi. Leroy Rogers, Director of Student Teaching, University of Southern Mississippi, Hattiesburg, Mississippi.

Missouri. Office of Educational Field Experiences, University of Missouri, Columbia, Missouri.

Montana. Robert H. Jay, Director of Student Teaching, School of Education, University of Montana, Missoula, Montana.

Nebraska. Department of Secondary Education, University of Nebraska, Lincoln, Nebraska.

Nevada. Anthony Saville, Dean, College of Education, University of Nevada, Las Vegas, Nevada.

New Hampshire. Michael D. Andrew, Coordinator of Teacher Education, University of New Hampshire, Durham, New Hampshire.

New Jersey. Office of Professional Laboratory Experiences, Glassboro State College, Glassboro, New Jersey.

New Mexico. W. B. Runge, College of Education, The University of New Mexico, Albuquerque, New Mexico.

New York. Ruth Matzner, Student Teaching Office, Queens College of the City University of New York, Flushing, New York.

North Carolina. College of Learning and Human Development, Appalachian State University, Boone, North Carolina.

North Dakota. Ervin A. Behsman, The Center for Teaching and Learning, University of North Dakota, Grand Forks, North Dakota.

Ohio. Linda McNeil, Administrative Assistant, Professional Field Experiences, Kent State University, Kent, Ohio.

Oklahoma. Douglas B. Aichele, Director of Student Teaching, Oklahoma State University, Stillwater, Oklahoma.

Oregon. Office of Field Services, Oregon College of Education, Monmouth, Oregon.

Pennsylvania. Robert F. Neuhand, Director of Clinical Experiences, Pennsylvania State University, University Park, Pennsylvania.

Rhode Island. William H. Lawton, Director, Laboratory Experiences, Rhode Island College, Providence, Rhode Island.

South Carolina. Office of the Student Teaching Committee, Winthrop College, Rock Hill, South Carolina.

South Dakota. Gordon Diedrich, Director of Student Teaching, Division of Education, Northern State College, Aberdeen, South Dakota.

Tennessee. William L. Butefish, Director of Student Teaching, College of Education, University of Tennessee, Knoxville, Tennessee.

Texas. E. J. Montague, Director, Student Field Experiences, College of Education, The University of Texas at Austin, Austin, Texas.

Utah. Eldon Drake, Director, Student Teaching, Bureau of Student Teaching, College of Education, Utah State University, Logan, Utah.

Vermont. Director of Student Teaching, Lyndon State College, Lyndonville, Vermont.

Virginia. Richard G. Salmon, Coordinator of Student Teaching, College of Education, Virginia Polytechnic Institute and State University, Blacksburg, Virginia.

Washington. Norma M. Dimmitt, Director of Field Experiences, College of Education, University of Washington, Seattle, Washington.

West Virginia. Jack E. Nichols, Student Clinical Experiences, Marshall University, Huntington, West Virginia.

Wisconsin. Office of Clinical Experiences for Teachers, School of Education, University of Wisconsin-Madison, Madison, Wisconsin.

Wyoming. Arlan Peters, Coordinator of Field Experiences, College of Education, University of Wyoming, Laramie, Wyoming.

State Department of Education Documents Cited

Alaska. Alaska Department of Education Rules and Regulations.

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

Delaware. "A Compilation of School Laws."

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

Georgia. "Guidelines for Competency-Based Education."

Hawaii. "Department of Education Policies."

Iowa. Iowa Administrative Code.

Kansas. Kansas Administrative Regulations.

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

Minnesota. "Department of Education Regulations."

Missouri. Missouri Student Teaching Certificate.

Montana. School Laws of Montana.

New Jersey. New Jersey Administrative Code.

"New Jersey Instructional Supplement for State Approval of Teacher Education."

New Mexico. State Board of Education Regulations.

New York. Memo: "Certificate of Qualification."

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

Oklahoma. "Guidelines for Student Teaching in Oklahoma."

Oregon. "Oregon Rules for Certification of Teachers, Specialists, and Administrators."

Pennsylvania. "Guidelines, Rules, and Procedures for Improving the Student-Teaching Field Experiences in Pennsylvania."

"State Board Regulations."

Rhode Island. "Auxiliary School Personnel: Their Employment and Utilization."

Vermont. "Regulations Governing the Certification of Educational Personnel."

West Virginia. "Standards for the Accreditation of Teacher Education Programs in West Virginia, 1974."

Wisconsin. Wisconsin Administrative Code.

Teacher Education Institution Documents Cited

California. The University of California, Los Angeles, "Rights and Responsibilities of Participants in the Credential Program of the Teacher Education Laboratory."

Connecticut. Southern Connecticut State College, "Student Teaching."

Delaware. University of Delaware, "Student Teaching Guidelines."

District of Columbia. District of Columbia Teachers College, "The Elementary Student Teaching Program."

Florida. University of South Florida, "Guidelines for Internships."

Georgia. University of Georgia. "Student Teaching Handbook, General Description and Guide for Cooperative Teacher Education."

Hawaii. University of Hawaii, "Handbook for Student Teachers and Cooperating Teachers."

Illinois. Illinois State University, "Student Teaching Handbook."

Indiana. Indiana University, "Agreement Concerning Placement of Student Teachers and Other Participants."

Iowa. University of Northern Iowa, "Handbook for Sponsor Teacher and Associate Teachers."

Maryland. University of Maryland, "Handbook for Cooperating Teachers."

Nevada. University of Nevada, Las Vegas, "Student Teaching Handbook."

New Hampshire. University of New Hampshire, "University of New Hampshire Intern Program."

New Jersey. Glassboro State College, "Handbook for Professional Laboratory Experiences."

Pennsylvania. Pennsylvania State University, "Student Teaching Handbook."

Rhode Island. Rhode Island College, "Student Teaching in the Elementary School, A Handbook."

South Carolina. Winthrop College, "Student Teaching Handbook."

Tennessee. The University of Tennessee, "Student Teaching Handbook."

Texas. Montague, E. J. The University of Texas at Austin, "Handbook for Student Teachers."

Virginia. Salmon, Richard G. Virginia Polytechnic Institute and State University, "Student Teaching Handbook."

Wisconsin. University of Wisconsin-Madison, "The Wisconsin Improvement Program and the Teacher Internship, Guidelines, 1976-1977."

Miscellaneous

Kemper Institute. "Association of School Business Officials Insurance Workshops." Boston, Mass. 1976. (Mimeographed.)

United States Code, §93-380.

APPENDICES

APPENDIX A**TYPES AND SOURCES OF LAW--FEDERAL AND STATE COURTS**

TYPES AND SOURCES OF LAW--FEDERAL AND STATE COURTS

The types and sources of law used in this study are presented according to the hierarchy of influence: constitutional law, legislative law, judicial law, administrative law, attorney generals' opinions, and state superintendent interpretations.

Types and Sources of Law

Constitution. "A constitution is a body of precepts which provides a framework of law within which orderly governmental processes may operate."^[1] The Constitution of the United States is "the supreme law of the land" under which all other laws are subject. Federal legislation supersedes state laws if a conflict arises. Within this limitation, the state constitution is the paramount authority within the state itself.^[2]

The Tenth Amendment of the Constitution of the United States states: "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."^[3] Since education is not referred

[1] Alexander, Corns and McCann, p. 2.

[2] E. Allen Farnsworth, An Introduction to the Legal System of The United States, (New York: Oceana Publications, 1963), pp. 59-60.

[3] U.S. Constitution, Amend. X.

to specifically in the United State Constitution, the responsibility is delegated to the states.

Every state constitution makes provision for a system of free public schools. "Such provisions range from very specific educational provisions to a simple mandate that the legislature of the state shall provide funds for the support of a public school system."^[4]

Legislation. The legislative branch of each state government issues statutes which govern the public schools within their respective states. "A statute is the expressed will of the legislative organ of a society."^[5] The term, statute, is derived from the latin term statutum which means "it is decided." "A statute, . . . , is the most effective means of making new law and it may either react to custom or forge ahead and establish law which shapes the future of the citizenry."^[6] It should be very clear that ". . . schools have no inherent powers and the authority to operate them must be found in either express or implied terms of statute."^[7]

The courts determine the constitutionality of a statute. As Bishop Hoadly said:

[4] Alexander, Corns, and McCann, p. 2.

[5] John Chipman Gray, The Nature and Sources of the Law, (2d ed.; Gloucester: Peter Smith, 1972), p. 152.

[6] Kern Alexander and Erwin S. Solomon, College and University Law, (Charlottesville: The Michie Company, 1972), p. 2.

[7] Alexander, Corns, and McCann, p. 3.

Whoever hath an absolute authority to interpret any written or spoken law, it is he who is truly the Law-Giver to all intents and purposes, and not the person who first wrote or spoke them.^[8]

Occasionally courts must decide questions put to them which may not have occurred to the legislature in designing the statute. In this situation the court must guess at what the legislature would have intended if the question were addressed at the time of adoption.^[9]

Case law. Judicial decisions embodied in case law may be defined as "the law of judicial and other adjudicative tribunals."^[10] According to Llewellyn, judicial precedent is followed due to the reasons cited below:

Towards its (precedent) operation drive all those phases of human make-up which build habit in the individual and institutions in the group; laziness as to reworking of a problem once solved; the time and energy saved by routine, especially under the pressure of business; the value of routine as a curb on arbitrariness and as a prop of weakness, inexperience and instability; the social values of predictability; the power of whatever exists to produce expectations and the power of expectations to become normative. The force of precedent in the law is heightened by an additional factor: that curious, almost universal sense of justice which urges that all men are properly to be treated alike in like circumstances.^[11]

[8] Gray, p. 172.

[9] Gray, pp. 172-173.

[10] Kern Alexander, Law and the Kentucky Teacher, (Bloomington: Beanblossom Publishers, 1966), p. 3.

[11] Alexander.

The policy of precedent requires a judge to consider other cases of a similar nature for guidance. Under case law the doctrine of precedent has been reinforced by the doctrine of "stare decisis." The term is derived from the phrase "stare decisis et non quieta decisio[n]" which, when literally translated, means "let the decision stand, and don't move that which has been settled."^[12] If a subsequent case embodies the same or substantially the same factual consideration then under the doctrine of "stare decisis" this is regarded as being binding upon all inferior courts within a jurisdiction.^[13]

Llewellyn writes that all case decisions, written opinions, all predictions, and all arguments are made on four certain assumptions:

- (1) The court must decide the dispute that is before it.
- (2) The court can decide only the dispute that is before it.
- (3) The court can decide the particular dispute only according to a general rule which covers a whole class of like disputes.
- (4) Everything . . . big or small, a judge may say in opinion, is to be read with primary reference to the particular dispute, and the particular question before him.^[14]

"The terms case law or common law are used to distinguish rules of law which have originated in the courts from those which have

[12] Barnard F. Cataldo, Introduction to Law and the Legal Process, (2d ed.; New York: John Wiley & Sons, 1973), pp. 16-17.

[13] Cataldo; see also Michael R. Smith, Law and the North Carolina Teacher, (Danville, Ill.: Interstate Printers and Publishers, 1975), p. 36.

[14] Alexander, Corns, and McCann, p. 5.

originated in legislative bodies." The courts in dealing with cases involving the public schools have three essential functions. These functions are to:

- (a) Settle controversies by applying appropriate laws or principles of law to a specific set of facts.
- (b) Construe or interpret enactments of the legislature.
- (c) Determine the constitutionality of enactments of the legislature.^[15]

Federal and state courts. It is necessary to have a general understanding of the structure of the judicial system in order to fully comprehend the impact of case law. The United States Constitution states that the "judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."^[16] Bolmeier explained the judicial structure of the United States as follows:

Immediately below the Supreme Court in authority are the courts of appeal [circuit courts]. The United States is divided into 10 judicial circuits, plus the District of Columbia as an additional circuit. In each of these circuits is a United States court of appeals. Each of the states is assigned to one of the circuits. The purpose of the courts is to relieve the Supreme Court of considering all appeals in cases originally decided by the federal trial courts. They are empowered to review all final decisions of district courts, except in very rare instances in which the law provides for the direct review by the Supreme Court. Next in line of authority immediately below the appellate courts are the United States District Courts. These courts are the trial

[15] Alexander, Corns, and McCann, p. 6.

[16] U.S. Constitution, Art. III §1.

courts with general federal jurisdiction. Each state has at least one district court, while some of the larger states have as many as four. Altogether there are 88 district courts serving the 50 states and the District of Columbia.^[17]

Illustration 1 shows the structure of the Federal Court System. As shown in this illustration, the Supreme Court sits at the top of the pyramidal structure of the Federal Court System. The Supreme Court of the United States possesses primary and appellate jurisdiction, although it does have original jurisdiction in certain actions or controversies as follows:

- (1) Between the United States and a state.
- (2) Between two or more states.
- (3) Involving foreign ambassadors, other foreign public ministers, and foreign consuls or their "domestic servants, not inconsistent with the law or nations." [not exclusive]
- (4) Commenced by state against citizens of another state or alien, or against a foreign country. [If these actions are commenced by the citizen or alien against a state, or by a foreign country against a state, the suit must begin in state court.]^[18]

The United States Supreme Court has appellate jurisdiction from:

- (1) All lower federal constitutional courts; most but not all, federal legislative courts, and the territorial courts.
- (2) The highest state courts having jurisdiction when a "substantial federal question" is involved.^[19]

[17] E. C. Bolmeier, The School in the Legal Structure, (2d ed.; Cincinnati: W. H. Anderson Co., 1975), pp. 54-55.

[18] Henry J. Abraham, The Judiciary, (3d ed.; Boston: Allyn & Bacon, 1973), p. 14.

[19] Abraham.

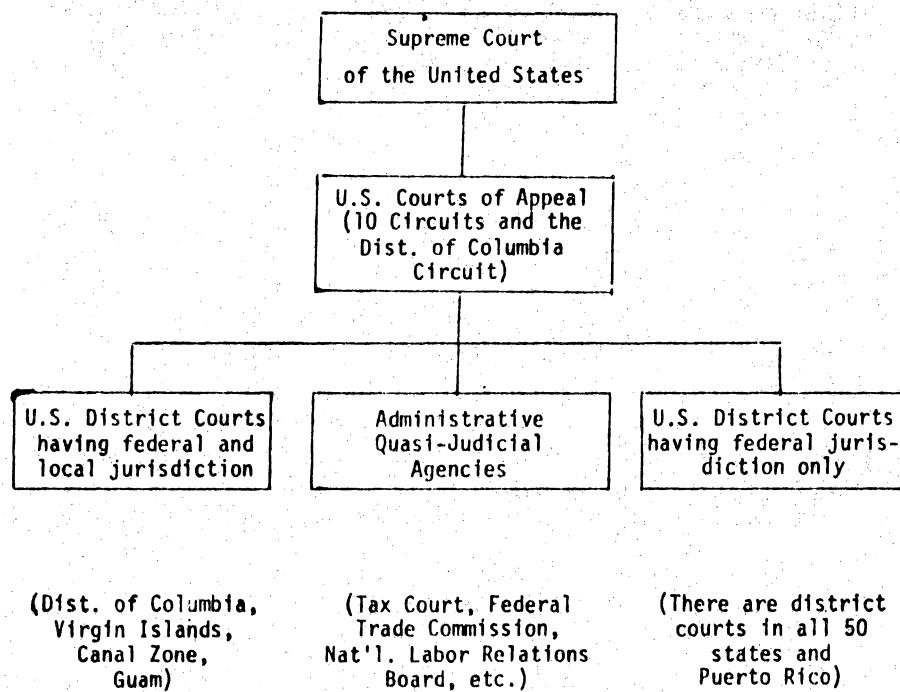


Illustration 1

FEDERAL JUDICIAL SYSTEM [20]

[20] Richard D. Gatti and Daniel J. Gatti, Encyclopedic Dictionary of School Law (West Nyack, New York: Parker Publishing, 1975), p. 91.

There are two principal methods of review by the Supreme Court:

(1) appeal, and (2) writ of certiorari.

Courts of Appeals have appellate jurisdiction from:

- (1) U.S. District Courts
- (2) U.S. Territorial Courts, the U.S. Tax Courts, and some District of Columbia Courts
- (3) The U.S. Independent Regulatory Commissions
- (4) Certain Federal Administrative Agencies and Departments.^[21]

The ninety-four United States District Courts serve as the basic trial courts of the federal court system. These district courts have original jurisdiction only over the following matters:

- (1) Crimes against the United States
- (2) Civil action arising under the constitution, laws, or treaties of the United States, (generally) if the matter in controversy exceeds \$10,000
- (3) Cases involving citizens of different states or citizens and aliens provided the value of the controversy exceeds \$10,000 (not exclusive jurisdiction)
- (4) Admiralty, maritime and prize cases
- (5) Review and enforcement of orders and actions of certain federal administrative agencies and departments (not exclusive jurisdiction)
- (6) All such other cases as Congress may validly prescribe by law.^[22]

Structure of a state court system. State court structures vary from state to state, generally along the lines indicated in Illustration

[21] Abraham.

[22] Abraham, pp. 13-14.

2. Illustration 3 shows the interrelationship of a state court system with the federal court system.

Administrative law. The impact of administrative law and regulations has increased in prominence in the last few decades. Administrative law consists of the rules and regulations of administrative agencies of both federal and state governments. These agencies have been delegated the power to deal with the operations of government by the appropriate legislative body.^[23] Cataldo states that agencies were established because expertise was needed to help legislatures in dealing with their problems. Generally, the courts will not interfere with an administrative agency unless the agency has:

- (1) acted arbitrarily
- (2) used inadequate evidence in arriving at its conclusion
- (3) improperly interpreted a statute
- (4) no jurisdiction over the matter^[24]

Usually, the courts will not interfere with administrative action until all appeal procedures of the administrative agency are exhausted.^[25]

Most state legislatures have created some form of a state board of education. This board may be elected or appointed. It has both judicial and legislative authority and performs administrative and supervisory functions.^[26]

[23] Henry J. Abraham, The Judicial Process, (2d ed.; New York: Oxford University Press, 1963), p. 22.

[24] Cataldo, p. 18.

[25] Cataldo.

[26] Alexander, Corns, and McCann, p. 124.

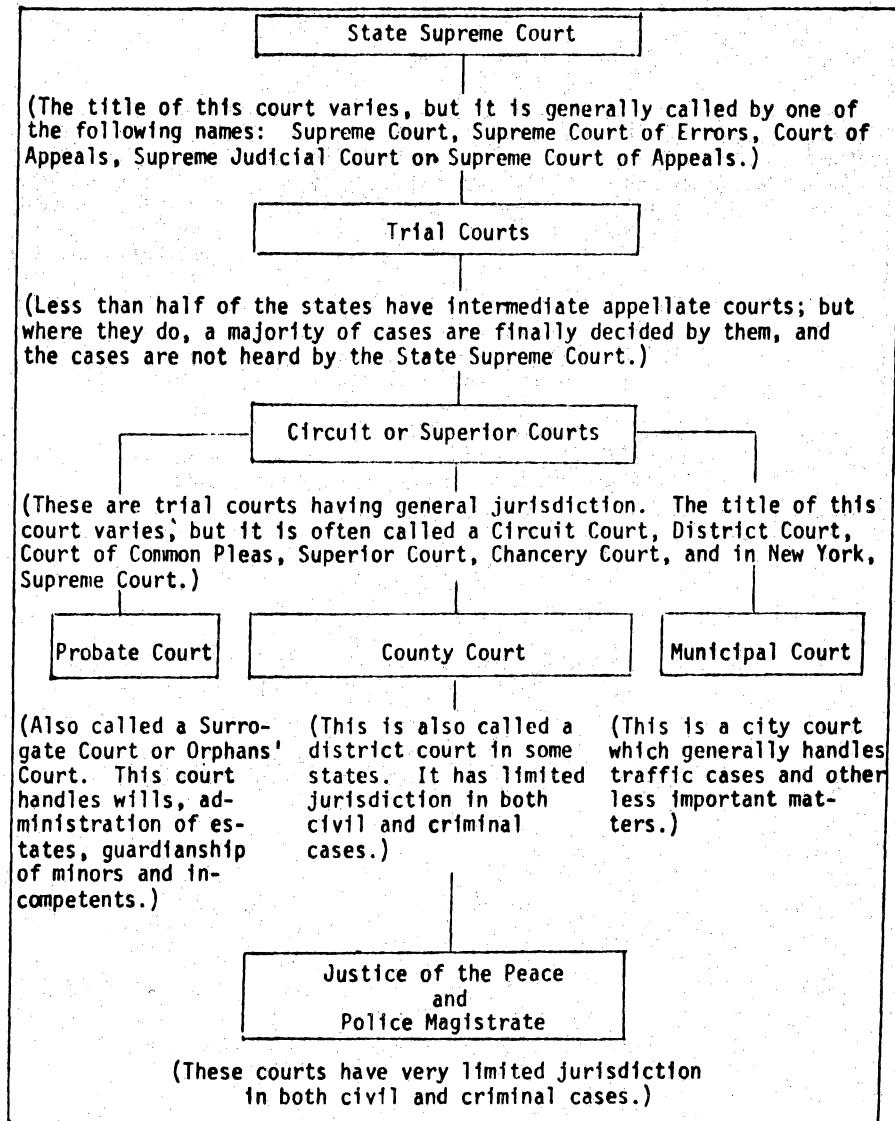


Illustration 2

A STATE JUDICIAL SYSTEM [27]

[27] Gatti and Gatti, p. 92.

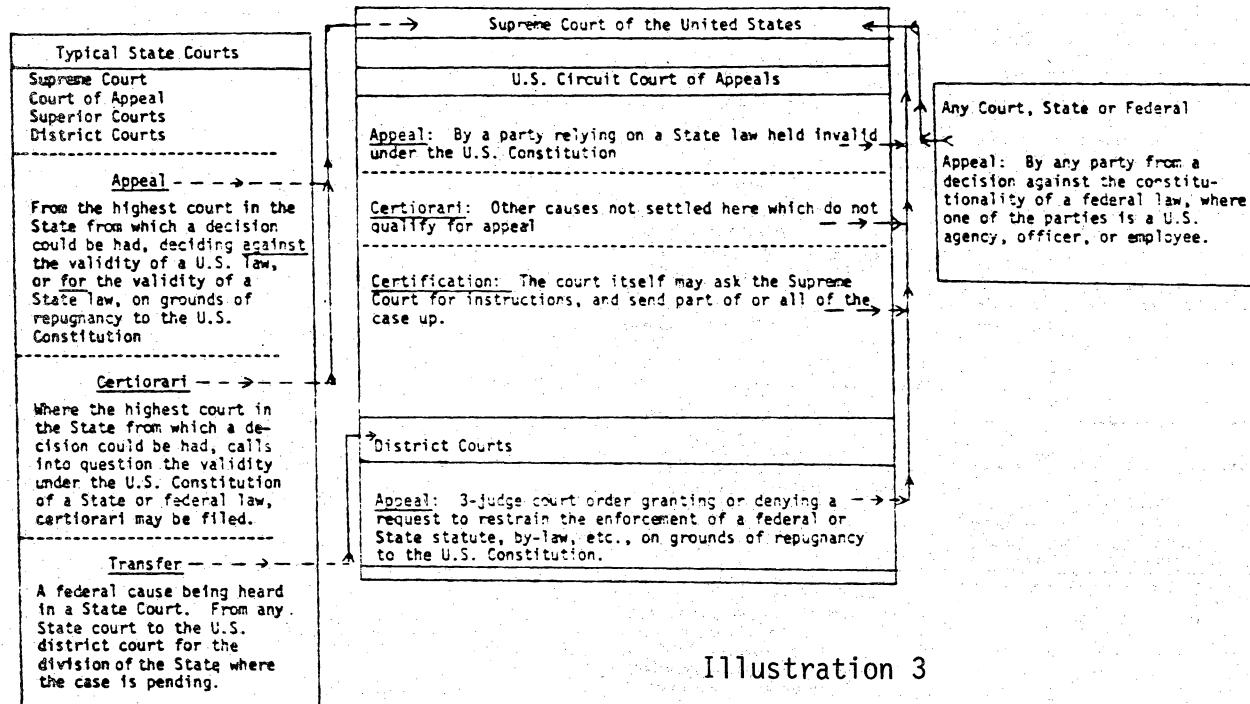


Illustration 3

INTERRELATIONSHIP OF STATE COURT SYSTEM WITH FEDERAL COURT^[28]

[28] Adapted from Smith, p. 34.

Opinions of Attorneys General. The office of Attorney General within a given state may be defined by the constitution or by a statute.^[29] The power of the office of Attorney General comes from constitutional, statutory, and common law.^[30] This may determine to some degree the relationship, powers, duties, and operations of the office of the Attorney General to the executive, legislative, and judicial branches of the state government.^[31]

Usually the office of Attorney General is considered to be part of the executive branch of government. The opinions given by the office of Attorney General are "quasi-judicial in nature."^[32] They may be persuasive in court, but they are neither binding nor conclusive.^[33] For example, a Colorado case:

While the construction placed upon a statute in opinion of the attorney general is persuasive authority, it is neither conclusive nor binding upon the courts, and where it is without authoritative legal support, it should not be approved or followed.^[34]

[29] National Association of Attorneys General, The Office of The Attorney General, (n.p.: n.n., 1971), p. 23.

[30] NAAG, The Office of the Attorney General, p. 32.

[31] NAAG, The Office of the Attorney General, p. 23.

[32] NAAG, The Office of the Attorney General, p. 29.

[33] American Jurisprudence, 2d 8. See also Brundage v. Peters, 305 Ill. 223, 137 N.E. 118, (1922); Badger v. Hoidale, 88 F 2d. 208, (1937).

[34] Leddy v. Cornell, 52 Colo. 189, 120 P. 153 (1912).

Normally the Attorney General only renders opinions to certain groups of people. [35]

Smith wrote of the relationship between the office of the Attorney General and the educator:

The Attorney General's Office is influential in that it renders advisory opinions to educational officers on the legality of their actions or planned actions. Though these opinions are not binding, officers can only ignore them at their own risk, therefore, they carry great weight. [36]

State Superintendent interpretations. In 1812, New York became the first state to provide for a chief state school officer. Since the beginning of the twentieth century every state has provided for such an office.

In several states it is the chief state school official who interprets the law as it relates to public education. Kentucky's State Superintendent shall "explain the true intent and meaning of the school laws" and he may consult with the attorney general in doing so. [37] Mississippi is somewhat similar in that the state superintendent is "responsible for rendering opinions on questions and controversies arising out of interpretation of the school laws." The Superintendent may also "submit questions to the state attorney general

[35] For example: Louisiana--public officials, boards, and other state agencies; North Carolina--members of the state legislature, any state officer including local public school superintendents, board members and attorneys for different boards; Ohio--state officers, boards and any other state agencies; Rhode Island--departments, boards, commissioners, and general officers of the state.

[36] Smith, p. 40.

[37] Kentucky Revised Statutes, § 156.240.

for his opinion on legal matters."^[38] The Superintendent of Public Instruction in the State of Utah serves as the "chief legal advisor" for the public school system and his "interpretations stand until challenged in court."^[39] In New Jersey and New York the Commissioners of Education interpret the law for their respective states. The State Superintendent of Schools in West Virginia issues advisory opinions concerning school laws. The West Virginia Code states:

At the request in writing of any citizen, teacher, school official, county or state officer, the state superintendent of schools shall give his interpretation of the meaning of any part of the school law or of the rules of the state board of education.^[40]

In states which give the office of the chief state school officer this interpretive power, his/her office is the counterpart to the office of the Attorney General as legally set forth in other states.

[38] Bobby D. Anderson, The Law and the Teacher in Mississippi. (Jackson: University Press of Mississippi, 1975), p. 28.

[39] Statement by Vere A. McHenry, Administrator, Division of Instructional Support Services, in a telephone interview May 25, 1976. Permission to quote secured.

[40] West Virginia Code, Art. 18-3-6.

APPENDIX B**GLOSSARY**

The terms included in the glossary are not completely applicable to all circumstances and are given only as a guide to aid the reader within the study. Those terms based on Black's Law Dictionary are signified by an asterisk.

GLOSSARY

*authorize--to empower; to give a right or authority to act

board of education--an agency of the state for government and management of a school district

certification--the act of designating persons whom boards of education may legally employ as teachers and other professional education personnel

certified/certificated teacher--a person engaged in teaching that has a certificate designating the person to be qualified and being a person that the board of education may legally employ, used in the study as the state uses the term

clinical experience--engaging in observation, participation, and in some cases teaching in public schools as a part of the teacher preparation process of a teacher education institution

common law*-those principles and rules of action relating to the government and security of persons and property which derive their authority solely from usages and customs, or from the judgments of the courts recognizing and enforcing such usages and customs, particularly the ancient unwritten law of England

cooperating classroom teacher--a certified teacher employed by the board of education who supervises elementary/secondary students during their clinical experience

due process--the right of a person to be present when judgment is pronounced upon the question of his life, liberty, or property; and the right of the person to be heard by testimony or otherwise

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

express authority*-authority delegated to an agent by words which expressly authorize him to do a delegable act

graduate intern--observation and participation by a student preparing for a graduate degree within a school setting under the direction of an administrator, guidance counselor, librarian, or other public school personnel

illegal*--not authorized by law; illicit; unlawful; contrary to law

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

in loco parentis*--in the place of a parent; instead of a parent; charged factitiously, with a parent's rights, duties, and responsibilities

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

inter alia*--among other things. A term anciently used in pleading, especially in reciting statutes, where the whole statute was not set forth at length

jurisdiction*--it is the authority by which courts and judicial offices take cognizance of and decide cases

laboratory school--a school that is funded and directly controlled by a teacher education institution whose facilities are used for clinical experiences

legal*--conforming to the law; according to law; required or permitted by law; not forbidden or discountenanced by law

liable*--bound or obliged in law or equity; responsible; chargeable; unanswerable; compellable to make satisfaction, compensation, or restitution

local school board--see board of education

off campus public school--an elementary/secondary school operating under a board of education, supported by public monies

preliminary certificate--a document giving authorization to an individual to engage in student teaching or other clinical experience within the public schools of a given state

public elementary/secondary school--see off campus public school

public school administrator--superintendent/staff, principal, assistant principal

* pupil--one who attends an elementary/secondary school under the care of an instructor, tutor, or teacher

safe harmless*--where a board of education pays the judgment from claims arising out of an employee's negligence committed within the course and scope of their employment.

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

status*--standing, state or condition, the rights, duties, capacities and incapacities which determine a person to a given class

student teacher--a college/university student who is acquiring experience in the activity defined as student teaching.

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

students of education--college or university students enrolled in a program for the preparation of teachers and other school personnel

sovereign immunity*--where a government cannot be held liable for tortious acts committed by its officers or employees

substitute teacher--person hired on a daily or otherwise non-yearly basis whose teaching duties are temporary in nature

teacher education institution--college or university providing program leading to certification for teachers and other school personnel

teacher educator--college/university staff person who supervises the activities of student teachers/undergraduate aides/graduate interns or teaches/administers professional courses in their professional education programs

tort*--a private or civil wrong independent of contract

undergraduate aide--observing and participating done by a freshman/
sophomore/junior student preparing for teaching under the direc-
tion of a cooperating teacher as a part of the pre-service pro-
gram offered by a teacher education institution

workmen's compensation*--method and means created by state statutes for
giving protection and security to the workman and his dependents
against injury and death occurring in the course of employment

APPENDIX C**SAMPLE LETTERS**

College of Education
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
Office of Blacksville, Virginia 24061
Student Teaching

College of Education

Blacksburg, Virginia 24061

Office of Student Teaching

August 16, 1976

Office of the Attorney General
State of Arkansas
Little Rock, Arkansas

Dear Sir:

At the present time I am conducting research for my doctoral dissertation. The research will examine the legal aspects of student teaching. Further research will concern the usage of undergraduates as aides in the public schools.

I am aware of Arkansas statutes 80-1233 and 80-1262 which speak to student teachers. Are there any in addition to these? Are there any statutes which speak to the practice of placing undergraduates in the public schools to serve as aides? If so, please furnish me with a copy.

If any current attorney general's opinions regarding the above subjects are in effect for the state of Arkansas, will you furnish me with a copy.

Your assistance in this undertaking will be greatly appreciated.

Sincerely,

R. Craig Wood
Graduate Teaching Assistant

RCW: jab

College of Education
VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
Office of Blacksville, Virginia 24061
Student Teaching

August 18, 1976

Office of the Attorney General
State of North Carolina
Raleigh, North Carolina

Dear Sir,

At the present time I am conducting research for my doctoral dissertation. The research will examine the legal aspects of student teaching. Further research will concern the usage of undergraduates as aides in the public schools.

If any current attorney general's opinions regarding the above subjects are in effect for the state of North Carolina, will you furnish me a copy.

Your assistance in this undertaking will be greatly appreciated.

Sincerely,

R. Craig Wood

College of Education

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
Office of Blacksburg, Virginia 24061
Student Teaching

January 18, 1977

Office of the Attorney General
State of Kansas
Topeka, Kansas

Dear Sir:

As of this date I have not received a reply to my letters of August 16, 1976, and November 1, 1976, regarding my inquiry concerning whether or not any current attorney general's opinions are in effect concerning the usage of student teachers, undergraduate aides, or graduate interns in the public schools of Kansas.

May I again request your assistance in this undertaking? If none exist, a statement to that effect for documentation purposes in the dissertation would suffice.

Any assistance your office could extend to me would be appreciated.

Sincerely,

R. Craig Wood
Graduate Assistance

**The vita has been removed from
the scanned document**

AN ANALYSIS OF SELECTED LEGAL ISSUES PERTAINING TO STUDENT
TEACHER, UNDERGRADUATE AIDE, AND GRADUATE INTERN CLINICAL
EXPERIENCES IN THE PUBLIC SCHOOLS OF THE UNITED STATES

by

R. Craig Wood

(ABSTRACT)

The primary objective of this study was to provide an analysis of selected legal issues affecting student teachers, undergraduate aides and graduate interns while engaged in clinical experiences in the public schools of the United States. To reveal the laws pertaining to student teachers, undergraduate aides and graduate interns an analysis was made of: (a) the statutes of each state, (b) case law, (c) the opinions of the attorney general of each state, (d) the state superintendent's interpretations where applicable, (e) the rules and regulations of each state department of education, and (f) the rules and regulations of the largest public teacher education institution within each state.

As a result of this study some of the general conclusions for the fifty states and the District of Columbia are presented:

1. Concerning local school board authority to permit clinical experiences:
 - a. 8% lacked authorization concerning student teachers
 - b. 37% lacked authorization concerning undergraduate aides
 - c. 49% lacked authorization concerning graduate interns
2. Concerning being considered an employee:
 - a. 68% made no mention of student teachers
 - b. 82% made no mention of undergraduate aides
 - c. 88% made no mention of graduate interns

3. Concerning financial compensation:
 - a. 80% made no mention of student teachers
 - b. 90% made no mention of undergraduate aides
 - c. 86% made no mention of graduate interns
4. Concerning eligibility for workmen's compensation:
 - a. 55% made no mention of student teachers
 - b. 80% made no mention of undergraduate aides or graduate interns
5. Concerning due process guidelines:
 - a. 63% lacked any for student teachers
 - b. 88% lacked any for undergraduate aides
 - c. 92% lacked any for graduate interns
6. Concerning guidelines if a strike occurs:
 - a. 94% lack any for student teachers
 - b. 98% lack any for undergraduate aides or graduate interns
7. Concerning the authority to perform duties without supervision:
 - a. 82% made no mention of student teachers
 - b. None made any mention of undergraduate aides or graduate interns
8. Concerning disciplining pupils:
 - a. 65% made no mention of student teachers
 - b. 86% made no mention of undergraduate aides
 - c. 88% made no mention of graduate interns
9. Concerning serving as a substitute teacher:
 - a. 71% made no mention of student teachers
 - b. 84% made no mention of graduate aides
 - c. 94% made no mention of graduate interns
10. Concerning access to pupil records:
 - a. 73% made no mention of student teachers
 - b. None made any mention of undergraduate aides or graduate interns

The findings of this study led to the following recommendations.

Every state should adopt comprehensive legislation providing definitive guidelines for educational clinical experiences in the public schools for student teachers, undergraduate aides and graduate interns. Based on the legal, philosophical and educational views of each state this

comprehensive legislation should concern the following issues during the clinical experience for student teachers, undergraduate aides and graduate interns:

1. Authority of local school boards to permit clinical experiences
2. Certification requirements
3. Employee status
4. Financial compensation
5. Workmen's compensation benefits
6. Due process
7. Teacher strikes
8. Authority to assume duties
9. Discipline of pupils
10. Liability for pupil injury
11. Substitute teaching
12. Access to pupil records

A model statute was presented that might serve as a guide in offering definitive statements concerning these issues.