

Secondary Preservice Teachers' Knowledge of the First Amendment

By Ian Call & Jason O'Brien

The First Amendment to the Constitution is a cornerstone of American democracy and students, like all members of the nation, are entitled to its protections. Justice Fortas, writing for the majority in *Tinker v. Des Moines* (1969), described how the First Amendment protects students at school when he wrote,

First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. (p. 2)

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However, the rights protected by the First Amendment can clash with the need to provide order at school and to effectively educate students (Imber & Geel, 2001). Clashes such as these require teachers to understand the complexity of First Amendment issues in their classrooms (Hills, 2003). Lacking an understanding of the complexity of teacher responsibilities in dealing with First Amendment issues can lead to lawsuits which can damage teachers' careers, cost school districts millions of dollars in legal fees, and have profound effects on the education of students.

While the number of lawsuits involving schools and teachers leveled off during the 1990s, cases involv-

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ing the First Amendment rights of students have increased in this decade, and the fear of litigation persists on the part of politicians, principals, and teachers (Lupini & Zirkel, 2003; Schachter, 2007; Wagner, 2007). According to a poll conducted by Harris Interactive in 2004, a majority (64%) of the teachers surveyed were concerned about the risk of lawsuits or legal challenges, and nearly two-thirds of teachers had the same or higher levels of concern about the possibility of facing a lawsuit as they did about results on standardized tests (Harris Interactive, 2004). Tracking litigation against teachers and schools is difficult because most studies tend to focus on court decisions and do not track the costs inflicted on school districts from cases that are threatened, filed, or settled (Hutton, personal communication, 2004). According to Mark Goodman, executive director of the Student Press Law Center, due to a lack of proper education, many administrators and teachers ignore laws that protect student speech until families force them to back down using lawsuits or the threat of a lawsuit (Billups, 2007).

Background

Several well-publicized cases decided by the Supreme Court have established tests for when administrators and teachers can or cannot limit the First Amendment rights of students. However, these tests require that school personnel understand the Court's decisions and apply that understanding to their unique situation. In making these decisions, the Supreme Court has identified four main criteria for limiting student expression in school: the expression must be associated with the school, the expression must be considered a "true threat," it must be determined to be obscene, or the expression must be capable of causing a "substantial and material disruption" to school activities (Dowling-Sendor, 2001).

Expression Associated with the School

The Court has ruled that expression associated with the school or sponsored by the school does not have the same protection as individual student expression and can be regulated by school officials. The primary justification of limiting student expression is "to ensure that the student expression does not interfere with the educational mission of the school" (Taylor, 2000, p. 7). In *Morse v. Frederick* (2007), the Court upheld a school's decision to punish a student who held a banner reading "Bong Hits 4 Jesus" even though the student was standing across the street and not actually on school property. The Court's justification in *Morse* was that student speech directed at the school equals speech that occurs "at" school. Other courts have regarded *Morse* as a broad license to extend school authority beyond school boundaries when it comes to limiting expression (LoMonte, 2009).

Threatening Speech

In the wake of deadly incidents such as the shootings at Columbine High

School, teachers and administrators have become more aware of threats made by students (Wheeler & Hutton, 2003). However, schools may overreact to this speech and infringe on a student's freedom of expression (Hudson, 2004). The courts have provided educators with various criteria to consider when determining whether student expression is a true threat. The criteria include whether the student has made similar statements in the past, whether school officials have reason to suspect the student might be violent, how the student made the threat, and whether the student communicated the threat directly to the person being threatened (Hills, 2003). The courts have ruled consistently that even if a threatening statement is not a true threat, educators can limit student expression out of fear of a disruption of school activities (Wheeler & Hutton, 2003).

Obscene Speech and "Fighting Words"

In *Bethel v. Fraser* (1986), the U.S. Supreme Court established that schools can discipline students for obscene speech, and that the Constitution does not prohibit schools from determining what modes of expression are appropriate (Stader, 2001). Teachers and schools can restrict the content of student expression if it is vulgar or obscene, and if the expression conflicts with the teaching mission of the school. However, teachers must be careful not to restrict expression just because they disagree with the student's message or viewpoint on a topic (Dowling-Sendor, 2001). Moreover, educators can restrict expression that school officials consider "fighting words," words that inflict injury by their very utterance or incense students to fight physically or verbally (Fischer, Schimmel & Kelly, 1999).

Speech that Disrupts School Activity

Even if student expression is not obscene or threatening, school officials can restrict the expression if the officials believe it will cause a disruption to school activities (Fischer, Schimmel, & Kelly, 1999). However, if the student challenges the restriction of expression in court, the school must provide evidence that a disruption would have occurred (Dowling-Sendor, 2001). A test case for determining this was the case of T. J. West, a middle school student in Kansas, who drew a Confederate flag during mathematics class. As a result of the drawing, the school suspended West for three days. Because of the history of racial tensions in the school and district, it was required that the students review a student handbook that contained the policy prohibiting them from possessing written material that is racially divisive or that creates ill will. The handbook listed examples such as articles or flags that denoted the Ku Klux Klan, Black Power, and the Confederacy.

West's father sued, alleging the school violated his son's First Amendment right to free speech. The 10th U.S. Court of Appeals ruled unanimously in favor of the school district because, given the history of racial incidents in the school, school officials reasonably feared that the drawing would cause substantial disruption of school activities (Dowling-Sendor, 2001). As evidenced by other similar decisions

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relating to the Confederate flag, the same expression can be restricted in one school but not restricted in another. The courts will rule in favor of the school only if it can provide proof of a possible disruption to school activities and that disruption outweighs the students' freedom of expression (Dowling-Sendor, 2001; Student Press Law Center, 2001).

Teacher Preparation and First Amendment Rights

While there have been widely publicized Supreme Court decisions involving the proper handling of students' First Amendment rights, the ability of teachers to understand these rights is by no means uniform across the United States. The standards and processes for certifying teachers vary widely among states, and this results in a variety of teacher-preparation curricula and experiences. As a result of this variation, as well as different life experiences, teachers enter classrooms with different levels of knowledge concerning laws and students' First Amendment rights (Brookshire & Kotz, 2002). Lupini and Zirkel (2003) have found that school personnel consistently show low levels of literacy regarding their understanding of legal issues pertaining to school matters. Further exacerbating this is the fact that school districts lack the resources to provide adequate professional development in educational law for teachers (Gullatt & Tollett, 1997).

This study took place in Florida, and state law there places responsibilities on teachers regarding students' rights. The Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida state that a teacher "shall not intentionally violate or deny a student's legal rights." Florida law requires teachers to discuss the school's code of conduct, which must contain "an explanation of the responsibilities and rights of students" (Florida Statute 1006.07). While the state requires teachers to take responsibility for protecting student rights, there is a paucity of research describing how well pre-service teachers are prepared to handle this responsibility when they enter the classroom.

Research Questions

The purpose of this study was to investigate the level of knowledge of students' First Amendment rights among secondary preservice teachers in various disciplines and their confidence in dealing with First Amendment issues in the classroom. The researchers investigated how preservice teachers learn about First Amendment issues in the classroom by studying preservice teachers' preparation and their experiences, such as other academic experiences, news, and prior careers. The information gleaned from this study can offer teacher educators insight into how pre-service teachers acquire knowledge and confidence in dealing with First Amendment issues in the classroom. The specific research questions were as follows:

1. Are secondary pre-service teachers confident they are prepared for dealing with students' First Amendment rights at school?

2. What experiences throughout the lives of secondary pre-service teachers, including academic experiences, do they feel have prepared them for dealing with students' First Amendment rights?

Methods

In order to describe pre-service teachers' knowledge and confidence in dealing with First Amendment issues in the classroom, the researchers used both quantitative and qualitative methods to take advantage of the strengths of both. Combining methods can help minimize errors that may arise from a single technique, and maximize the meaning from results of data interpretation (Johnson & Onwuegbuzie, 2004). Morse (2003) states that by using more than one method (i.e., surveys and interviews) within a research regimen, researchers are able to obtain a more complete picture of human behavior and experience. The researchers collected quantitative data using a Web-based survey developed by the researchers. Using the data collected from the survey, the researchers used both descriptive and inferential statistics, including measures of central tendency and analysis of variance, to describe the level of knowledge and confidence of pre-service teachers at the university.

When designing the study, the researchers decided to conduct interviews to gather data on how preservice teachers acquire knowledge and confidence in dealing with First Amendment issues. The purpose of the interviews conducted by the researchers was to obtain "here and now constructions" of the participants about their preparation to deal with First Amendment issues in the classroom and to validate the findings from the survey instrument.

For the interviews, the researchers used a structured interview strategy. During the structured interview (conducted individually), the researchers had a list of questions prepared prior to the interview and asked each participant the same questions. This strategy is used when the researchers know the questions that need to be answered and relies on the participants to provide the responses and the data (Lincoln & Guba, 1985). The interviews the researchers conducted for this study were 30 to 45 minutes in length, since the researchers had already collected the biographical information through the survey instrument.

During the interviews, the researchers asked the respondents the following four types of questions developed by Patton (1980):

Experience/Behavior Questions: Questions that are aimed at eliciting descriptions of experiences, behaviors, actions, and activities that would have been observable had the observer been present.

Opinion/Value Questions: Questions that try to find out what people think about the world or about a specific program.

Knowledge Questions: Questions that find out what a respondent considers to be factual information regarding the research topic.

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Interpretive Questions: Questions in which the researcher advances a tentative interpretation of what the respondent has been saying and asks for a reaction.

Setting

This study was conducted at a public research university in Florida which enrolls more than 46,000 students on four area campuses. This university's College of Education is among the ten largest in the United States and at the time of the study had more than 3,500 students in its many undergraduate and graduate programs. The College of Education is accredited by the National Council for the Accreditation of Teacher Education (NCATE) and received more than \$23 million in external funding from 2007 to 2008 to support the College's research and professional service efforts.

Participants

After receiving IRB approval, the researchers sent emails to 325 preservice teachers inviting them to participate in the study. To increase the return rate, emails were sent on three occasions at intervals of two weeks. Of the 325 preservice teachers who received emails, 110 (33.8%) completed surveys. This return rate was commensurate with other return rates evident in social science literature. Cook et al. (1990) conducted a meta-analysis of 68 electronically administered surveys between 1994 and 1999 and found that the mean response rate was 39.6% (S.D.= 9.6%). The participants in this study were secondary education preservice teachers in mathematics, science, English, foreign language, and social studies. The preservice teachers were students in the College of Education's Department of Secondary Education and were, at the time of the study, taking courses in one of the college's programs that lead to teacher certification in their respective areas. Table 1 displays the preservice teachers by subject area and academic level.

The first section of the Web-based survey required the preservice teachers to provide background information including their gender, teaching experience, experience with the law, and experience with educational law. Eighty-five of the participants

Table 1
Number of Pre-Service Teachers Who Responded by Subject Area and Academic Level

	Social Studies	Math	Science	English	Foreign Language
Graduate (n=38)	22	1	8	5	2
Undergraduate (n=72)	32	6	9	24	1

Note. The researcher sent an e-mail with a link to the survey to 325 pre-service teachers asking them to participate in the study. Out of the 325 pre-services that received e-mails, 110 completed on-line surveys.

were female; 25 were male. Fifty-three of the survey participants indicated having teaching experience; 36 of those participants responded that they had experience as a substitute teacher, and 17 participants responded that they had experience as a full-time teacher. Regarding experiences with the law, 14 participants responded that they had served on jury duty, nine had been involved in a lawsuit, and ten had worked in law enforcement or a legal profession. In addition, 47 participants responded that they had a family member working in law enforcement or in a legal profession.

Development of the Survey Instrument

The second section of the survey consisted of ten questions based on classroom scenarios involving students' First Amendment rights, plus seven questions about First Amendment concepts. The classroom scenario questions were included to examine the decisions that participants would make when dealing with a First Amendment issue as it unfolded in their classroom. In order to contextualize or explain the participants' reactions to the scenarios, the participants were asked to provide information about experiences which may have influenced their level of knowledge of First Amendment issues that affect the classroom. These two sections were developed in conjunction with one another to offer information not only about what decisions participants would make, but also *why* they would make these decisions.

The researchers developed the scenarios in the survey using actual court cases involving First Amendment issues in the classroom. The researchers used several criteria when selecting the cases for the survey. First, in each of the court cases chosen, a judge provided a written decision about the constitutionality of the case and the decision was based on guiding principles supplied by the Supreme Court that are not likely to change in the near future. Another criterion was that in each case chosen, a classroom teacher initiated the conflict between the school and the student's First Amendment rights with a decision to take action. The researchers' goal in selecting the cases was to represent plausible situations that teachers could likely have to deal with in the future. A brief description of each of the scenarios follows:

A student wearing a t-shirt with the phrase "Homosexuality is Shameful."

A student displaying a Confederate flag on his car.

A student requesting that a member from her church be allowed to propose an alternate belief to the premise that religion and homosexuality are compatible.

A student wearing a shirt that says "President Bush is an international terrorist."

Several students distributing candy canes with Christian messages on the packages.

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A student given work detail for refusing to recite the Pledge of Allegiance.

A student assigned a grade of zero for a paper titled "The Life of Jesus Christ."

A student is told that her comment that "America is a Christian nation and has a duty to protect the Holy Land (Middle East)" is inappropriate and offensive speech.

The final section of the survey instrument asked preservice teachers about First Amendment concepts. These concepts included the "use of the Bible in the classroom," "standing for the Pledge," and "fighting words," all of which were based on standards developed by the United States Supreme Court. As participants answered questions on the survey instrument, they were asked to report their level of confidence for each response.

Selection of the Interview Participants

Once the researchers completed the data analysis from the surveys, they utilized stratified purposeful sampling to select participants for interviews. The researchers used this sampling strategy of selecting participants at defined points of variation to examine the characteristics and variations of the different groups. The defined points of variation included high, average, and low scores and high, average, and low confidence levels among the preservice teachers. The researchers classified the participants who scored within one standard deviation from the mean as average scorers; those who scored one standard deviation or more above the mean, high scorers; and those who scored one standard deviation below the mean, low scorers. The researchers used the same method for grouping students based on their confidence totals. The number of participants and description of each participant is provided in Table 2

Limitations

The major limitation in this study is the fact that only 34% of the preservice teachers who received emails to participate in the study responded to the researchers. An important component of any survey research is the concern with the sample being sufficiently representative of the entire population. The fact that two of three eligible preservice teachers did not respond may have led to what Miller and Smith (1983) call "non-response error."

However, it is not true that representativeness increases in direct correlation with higher response rates (Krosnick, 1999). For example, Visser and colleagues (1996) compared mail and telephone survey results forecasting election results. Although the mail surveys had response rates of 20% and the telephone surveys had response rates of 60%, the mail surveys predicted election outcomes much more accurately. Studies on phenomena other than voting have shown that higher

response rates do not necessarily translate into more accurate results (Brehm, 1993). Ultimately, more than one hundred preservice teachers responded to the survey and adequate thought was given to how interview participants were chosen for the stratified sample (i.e., confidence scores and content scores). Therefore while we may or may not be able to generalize towards the entire population of preservice teachers, we hope that the themes identified by participants and the general low level of efficacy in dealing with these issues may offer insight and future directions for researchers in the field of teacher education.

Results

Confidence in Dealing with First Amendment Rights

The first research question addressed was: “Are secondary preservice teachers confident they are prepared for dealing with students’ First Amendment rights at school?” Using the responses the preservice teachers provided on how confident they were in their answers to the questions on the Web-based survey, the researchers calculated a confidence score for each of the participants. Table 3 shows the mean, standard deviation, and range of the preservice teachers’ confidence level on the survey instrument.

The participants were most confident in their answer to the question regarding the Pledge of Allegiance. On the Pledge question, 72.3% of the participants indicated that they were either Confident or Extremely Confident in their answer. Overall, the participants were least confident in their answer to the question about

Table 2
Description of Interview Participants

Level	Pseudonym	Subject	Score	Confidence Level
Graduate (n=5)	Kimberly	Social Studies	High	Average
	Beth	Social Studies	Low	Average
	Angela	Social Studies	High	High
	Jennifer	English	High	Average
	Shirley	Foreign Language	Average	Average
Undergrad (n=5)	Edward	Science	Average	Low
	Michael	Social Studies	Average	High
	Carrie	Mathematics	Low	High
	Stacie	Social Studies	Average	Low
	Pamela	Mathematics	Low	Low

Note: Interview participants were selected based on subject area, academic level, score, and confidence level. High, average, and low classifications for both score and confidence level were determined using standard deviations. Any score within one standard deviation of the mean was average, a score lower than one standard deviation from the mean was low, and a score higher than one standard deviation from the mean was high.

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displaying the Confederate flag, on which 45.8% of the participants indicated that they were either Not at all Confident or Slightly Confident.

When interview participants answered that they were Confident, one of the reasons they gave was their belief that the action was the “right thing to do.” For a number of the interview participants, the questions were “just kind of a value judgment on a lot of them,” and if they had strong feelings about that value, they would have more confidence in their answer. Beth, explaining her answer to the question regarding a student’s expression about the Holy Land, said she felt confident, “because that young lady is entitled to her opinion.” Shirley, explaining her answer to the question regarding a student creating a Web page that criticized the school, said “I put Extremely Confident on this one because adults do that all the time. Why wouldn’t they be able to do it? That is just not right. They are voicing their opinion, that is what they are supposed to do.”

Personal Experiences

Another reason why the interview participants responded that they were Confident in their answer was because they had a similar experience. Carrie explained the confidence in her answer to the Confederate flag question by saying, “South Carolina has the Confederate flag in their state flag. I figured if a state has it in their flag, then there’s no reason why a student shouldn’t be able to.” Three of the interview participants explained that experiences in their internship had shaped their confidence in their answer. Stacie, explaining her confidence in her response to the Confederate flag question, stated:

With the Confederate flag, based on the school that I am at now, they are not allowed to wear anything with the Confederate flag because it is considered offensive, but they are also not allowed to wear the Puerto Rican flag or things of any other flags.

Table 3
Pre-Service Teachers' Confidence Level from the Students' First Amendment Rights Survey by Academic Subject Area and Academic Level

	M	SD	Minimum	Maximum
Total (n=110)	2.78	0.55	1.6	4
Social Studies (n=54)	2.82	0.57	1.6	3.9
Math, Science, English, and Foreign Language (n=56)	2.78	0.49	1.6	4
Graduate (n=38)	2.72	0.53	1.9	3.9
Undergraduate (n=72)	2.81	0.57	1.6	4

Note. The lowest score possible was 1.0 (Not at all Confident for every question), and the highest score possible was 4.0 (Extremely Confident for every question).

In addition to teaching experiences, the preservice teachers often referred to background experiences during their responses. Beth, when describing why she responded “Confident” in some answers and “Slightly Confident” in other answers, explained, “I don’t know if that was correct or not, but I knew from personal experience, and in others I was just, I was very iffy.” Jennifer, who was confident in her answer to the anti-Bush t-shirt question explained, “In high school a kid wore a Bin Laden shirt that had a gun target, so I assumed that since he wasn’t sent home, and it was freedom of expression how he felt that that would be the same thing.”

Reasons for Lack of Confidence in Making Decisions

When the interview participants discussed why they selected “Slightly Confident” or “Not at all Confident” they cited several reasons. The first reason was their belief that the answer was a “judgment call” and that both answers could have been correct. Stacie explained, “With some of them it just kind of seemed like it could go either way and I could, or some could, find a way to argue for it or against it based on what I knew.” Another reason the interview participants offered for their lack of confidence was that something in the question made them that way. Regarding the question about vulgar speech, Angela explained that she was Slightly Confident “because maybe the language didn’t offend anyone. It wasn’t extremely vulgar, so that’s why I wasn’t sure.”

The interview participants also cited a lack of preparation as a reason for their lack of confidence. Edward said that he “didn’t feel comfortable with the amount of education that they [teacher education programs] give student teachers,” and that pre-service teachers “are left in the dark about it until we violate it, and then we’re in trouble.” Carrie stated it would be “nice to have some idea of what you are going to see and some idea of how to handle it, but I don’t feel like I have gotten a lot.”

Criteria for Making Decisions About First Amendment Rights

The data show that preservice teachers use several criteria when determining whether teacher or school actions would violate students’ First Amendment rights. The first criterion is school or school board policy. During interviews with the preservice teachers, a frequent response was “it depends on the school’s policy.” School policy was cited in explanations to the questions dealing with the Confederate flag, the anti-Bush t-shirt, and the Pledge of Allegiance. For the question regarding the Pledge, some of the students believed that whether or not the school violated the students’ First Amendment rights was based solely on the school’s policy regarding reciting the Pledge.

The second criterion the preservice teachers use to guide their decisions regarding First Amendment issues was their belief as to what was “right” or “wrong” to do in that situation. Three of the interview participants characterized the questions as “value judgments” and felt that teachers and schools could make the decisions based on their own personal opinions. Carrie believed that students “should be

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able to say what they want, freedom of expression, and I completely believe that.” Shirley, while explaining her answer to the question about students distributing candy canes with religious messages, stated, “if the person doesn’t want to read it, don’t take the candy, but the teacher shouldn’t take the candy, that is not right.”

Another criterion the preservice teachers used to guide their decision was offensiveness. When the preservice teachers explained why the teacher or school was justified in limiting student expression, they believed that the standard was offensiveness to other students or teachers. When asked about the differences between the rights of adults and rights of students, Stacie explained that the school could limit students expression to “keep people from being offended.” Edward believed that the school was justified in telling the student to remove the anti-Bush t-shirt. He stated, “Well, it is kind of offensive and some people might take offense to it, such as if there is a student in the school that is completely the opposite and feels he [Bush] is doing a good job.”

The final criterion preservice teachers use to guide their decisions is apprehension and concern about “getting into trouble.” Michael, while explaining why it was important to teach preservice teachers about First Amendment rights, said, “The teacher is the one that has to face it first, and if they know how to handle it correctly, then they will be able to avoid having the court involved or anything else like that.” Edward was also fearful of the consequences of making students stand for the Pledge and said that as a teacher, “You don’t want to get in trouble for making your students stand up for taking the Pledge, it’s kind of one of those things, ok there are a lot of other things that I could get in trouble for.”

Knowledge of First Amendment Standards

The data show that preservice teachers lack an understanding of the standards the Supreme Court has prescribed for teachers and schools when dealing with First Amendment issues. This lack of understanding was evident when the preservice teachers explained their answers to the questions on the survey instrument. For instance, none of the preservice teachers identified the speech in the anti-Bush t-shirt question as political speech. For the question regarding the Confederate flag, only one preservice teacher identified the history of violence at the school as influencing her answer. For the question about a student giving a vulgar speech, none of the pre-service teachers identified as relevant to the decision, the fact that the speech took place during a school-sponsored activity. Finally, when discussing the need for schools to keep order and prevent disruption, only one student cited the Supreme Court’s standard of “material and substantial disruption.”

The second research question guiding this inquiry was: “What experiences throughout the lives of secondary preservice teachers, including academic experiences, do they feel have prepared them for dealing with students’ First Amendment rights?” The preservice teachers who participated cited a number of experiences from which they gained knowledge about First Amendment issues. Stacie based

her answer to the Pledge of Allegiance question on her experience in an internship. She stated, "At the school I am at, the rule is that everybody has to stand. But, you don't have to do the actual pledge itself, you don't have to say it."

The preservice teachers described background experiences as another resource for knowledge about First Amendment issues. Michael stated that his time in the military provided experiences dealing with First Amendment issues and a desire to understand the guarantees of the Constitution. Carrie, describing her upbringing, said that "I was raised in a very liberal home and I have strong feelings towards, you know, First Amendment rights and how the government should act towards its citizens," and that these feelings would influence how she handled First Amendment issues in the classroom.

Several of the participants based their answers on experiences they had as students. Jennifer referred back to an experience from her high school when she said, "The high school that I went to had a policy that if you wore a t-shirt that was offensive to other students, then you had to wear the t-shirt inside out for the entire day. It was a rule." Pamela explained one answer by saying "The only reason I put that because when I was in high school, I was told that we were allowed to do those sorts of things."

Coursework

The coursework to which preservice teachers referred most often during the interviews were Social Foundations and Classroom Management courses, and one mentioned a social studies methods course. While the preservice teachers mentioned the courses, they could not recall many details. For instance, while discussing what she learned in her Social Foundations course, Carrie stated, "The only course that touched on First Amendment issues was Social Foundations, but a lot of that was from the 1800s, so I know a little bit about the First Amendment rights from back then, but nothing current at all."

Importance of Learning about Students' First Amendment Rights

All of the participants interviewed believed it was important to include dealing with students' First Amendment rights in the teacher preparation curriculum. Stacie summed up her feelings about the importance of adding First Amendment issues to the curriculum when she said, "I think it would be a good idea to include it in the program here at the school...because as I was filling out the survey, I was thinking to myself, wow I really know less about this than I thought I did." The interview participants also believed that if there was a problem with a student's First Amendment rights, the teacher would have to face the problem and that it could lead to the teacher "getting into trouble."

Even though the interview participants agreed that First Amendment issues should be included in the teacher education curriculum, they differed as to how. Many of the participants did not want to add another class and would only want

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a course on educational law “if it replaced another class.” Two of the interview participants believed that adding a class on educational law would be a good idea and were under the impression that other teacher education programs did require pre-service teachers to take such a course. When asked about integrating educational law and First Amendment issues into a current course, most of the interview participants cited the Social Foundations and Classroom Management courses.

Discussion

Preservice teachers generally have a high level of confidence in their abilities (Brookhart & Freeman, 1992; Kagan, 1992). The findings of this study provide evidence that when pre-service teachers have experience with a particular First Amendment issue, they have more confidence in their ability to deal with that issue in the classroom. In a study of the relationship between preservice teachers' beliefs about education and discipline, Wither and colleagues (2002) found that preservice teachers in their study were predominantly interventionists who tended to take immediate action to control student behavior. During the interviews, the preservice teachers were asked what action they would take if one of the scenarios from the survey was to happen in their classroom. For the majority of the preservice teachers in this study, when they had confidence in dealing with a particular issue, they were also an interventionist. However, preservice teachers who were less confident were more likely to seek advice from a fellow teacher or an administrator before taking any disciplinary action. When preservice teachers believed that the students had a First Amendment right to do what they were doing in the particular situation, they were also less likely to take any action or consult another teacher or administrator.

The confidence level of preservice teachers is important because, according to Bandura (1994), teachers with high assurance in their abilities tend to take more risks, feel capable of making challenging decisions, and better prepare themselves for the challenge, while those with low assurance in their ability avoid activities and situations that they find stressful or above their coping capabilities. While teacher educators strive to instill confidence in preservice teachers' ability to manage the classroom without the need for intervention, that may not be the case for First Amendment issues. In the case of First Amendment issues, teacher educators should strive to educate preservice teachers so that they can recognize situations in the classroom that have First Amendment implications and notify the appropriate administrator.

The findings from this research study support findings that many public school teachers remain confused about what kinds of expression are permissible in school (Demac, 1997; Marshall, 2003; Rozycki, 2003). When making decisions about whether the action in the scenarios violated students' First Amendment rights, the preservice teachers relied on four criteria: school policy, offensiveness, a sense of right or wrong, and apprehension. These criteria were influenced by their experi-

ences as students and teachers and concern about the consequences of making the wrong decision.

Many of the preservice teachers identified school policy as the most important source for making decisions about First Amendment issues and felt that the school decided what rights students had in the classroom. When asked about some of the questions on the survey, the preservice teachers referred to the policy at their high school or at the school where they interned. However, the preservice teachers had inferred what the school policy was and did not remember the particular policy or how they learned about that policy. In addition, they seemed to think that school policies were somewhat universal and that a policy at one school would apply to different situations. While investigating school policy before taking action would be beneficial, it seems that many of the preservice teachers would act on what they perceived the school policy to be for that situation. However, their belief was based not on reading the school policy, but based on their experiences and what they inferred was the school's policy from their own observations. Brookshire and Klotz (2002) similarly found that inaccurate perceptions of teachers may lead to violations of students' rights even though the teacher intended to follow policy.

Preservice teachers also identified offensiveness as a criterion for making decisions regarding students' First Amendment rights. Many of the preservice teachers believed that if a student's expression could offend other students, restricting that expression was justified. This ambiguous interpretation of a disruption was any disruption to the classroom, not the "material and substantial" disruption standard that the U.S. Supreme Court has prescribed. Using their own standards instead of legal standards, many preservice teachers would violate students' First Amendment rights.

Preservice teachers used their sense of right and wrong as another criterion for deciding what to do when confronted with an issue involving students' First Amendment rights. While there are value judgments inherent in any number of decisions made by teachers, it is important for classroom teachers to understand Court precedents when limiting student expression. By using individual values as a guide to make these decisions, the amount of expression allowed will vary from classroom to classroom, and the teacher's actions could lead to violations of the First Amendment.

The final criterion preservice teachers used when making decisions regarding First Amendment issues was concern about the consequences of student expression. In some situations, this apprehension could lead a teacher to not violate students' First Amendment rights, and in other situations it could lead teachers to violate their rights. Without proper preparation, preservice teachers will be guided by these criteria rather than the standards that have been set by the Constitution and the U.S. Supreme Court.

If the preservice teachers do not understand the proper standards, then not only will they be more susceptible to violating students' First Amendment rights, but they will not be able to defend their actions properly in discussions with fellow

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teachers, administrators, and parents. In addition, teachers have a responsibility to be able to discuss with students their First Amendment rights, and if preservice teachers do not understand these standards, they cannot adequately inform students of their rights and the limits of those rights at school.

Implications for Teacher Education

Starting in the late 1970s and early 1980s, a number of researchers and teacher educators began calling for educational law to be included in the teacher education curriculum (Dunklee & Shoop, 1986; Hazard et al., 1977; Henson, 1979; Sametz & Mcloughlin, 1983). Continuing through the 1990s researchers were calling for a discrete course in educational law to be added to the curriculum for undergraduate and graduate preservice teachers in order to avoid violations of students' First Amendment rights and the potential of costly litigation (Gullatt & Tollet, 1997). The findings from this study confirm previous findings that pre-service teachers need better preparation in educational law, specifically in the area of First Amendment issues, and that the preparation needs to be systematic and program-wide (Gullatt & Tollet, 1997; Sametz, 1983; Schachter, 2007; Wagner, 2007).

However, the opinions of the preservice teachers in this study do not support the literature's call for adding a course specifically for educational law. Only two of ten interview participants thought that creating a mandatory educational law class would be the best solution. A majority of the remaining participants agreed with Wagner (2007) that the material should be integrated into courses that are presently taught in teacher education programs. Although this would force teacher educators to incorporate additional content, it would be a far easier endeavor (both logistically and financially) for the respective programs.

When discussing how to include students' First Amendment rights in the curriculum, many preservice teachers believed that the case study method would provide the best strategy for teaching them how to deal with the First Amendment issues. Case studies could be particularly effective because as students discuss their reactions to student expression scenarios, underlying preconceived notions (and misconceptions) can be elucidated. At the very least, instruction of this type may lead to teacher educators being more informed and more thoughtful regarding student expression as they enter the teaching profession.

Conclusion

Clearly, how to appropriately deal with student expression is one of the many responsibilities endemic to the teaching profession. The ubiquitous nature of technology has created a vehicle for expression that the framers of the Constitution could not possibly have foreseen when creating the First Amendment. In the post-9/11 anti-Muslim, anti-immigrant, post-everything-I'm-thinking-and-feeling-on-my-webpage world in which we are living, human expression is entering frontiers

largely uncharted in human history. Expression which in the past may have been confined to a small cadre of friends or one isolated location now has the potential to be disseminated worldwide in hours or even minutes. This places teachers and school administrators in a precarious situation and indicates that teacher education programs have a responsibility to better prepare future teachers to deal with the complexities of student expression.

While free expression and individual rights are the cornerstones of the democratic republic in which we live, teachers have an obligation to provide a learning environment that promotes individual thought and expression while at the same time creates a safe and non-threatening learning environment for all students. The preservice teachers in this study clearly were not prepared to effectively deal with First Amendment issues in the classroom, as evidenced by their lack of knowledge as to when they could limit student expression or as defined by the low confidence they reported when making their decisions. Teacher educators have their work cut out for them. By exposing preservice teachers to the directives of the courts, research, and the ideas of other preservice teachers, they can hopefully prepare future teachers to effectively deal with the complex First Amendment issues that will likely occur in the classroom during their career. Better preparation may lead to a reduction in costly lawsuits, less violation of school policies, and ample protection of students' freedom of expression.

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