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ABSTRACT

This paper explores what teachers can do to avoid potential lawsuits. Section 1 describes different types of laws for public and private schools. Section 2 discusses tort liability. Section 3 presents legal principles that apply to educators (in loco parents, intentional torts, strict liability, negligence, foreseeability, assigned duties, contributory negligence, assumption of risk, and federal torts). Section 4 discusses negligent conduct and supervision. Section 5 presents guidelines in supervision. Section 6 discusses responsibility for learning (accountability, curriculum, and new teaching methods and techniques). Section 7 presents guidelines in methodology. Section 8 discusses obscenity in the classroom. Sections 9 and 10 discuss libel, slander, and privacy and related guidelines. Sections 11 and 12 discuss teachers' civil liberties and related guidelines. Section 13 discusses before and after school. Sections 14 and 15 note that principals can also be sued, and offer guidelines for principals. Section 16 describes teachers as counselors. Section 17 explains child abuse reporting. Section 18 discusses classroom management. Section 19 examines prayer in school. Section 20 emphasizes field trips. Section 21 presents guidelines for corporal punishment. Section 22 discusses guidelines regarding discipline. Section 23 explains what teachers should do if they think they might get sued. (Contains 13 references.) (SM)

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# How Teachers Can Avoid Being Sued

## Law and American Education

Jim Greene

### ABSTRACT

In this litigious society, we all need to be aware of the laws that govern our people and our professions. Teachers are no exception. They may be even more open to lawsuits because of the nature of their positions. They are required, every day, to manage and maintain a safe, learning atmosphere for many young people.

The number of lawsuits against school districts, administrators and teachers is on the rise. Being aware of the laws governing our schools and the way the courts are interpreting these laws can help teachers avoid a lawsuit.

This paper will explore what can be done by teachers to avoid lawsuits that may be brought against them. Emphasis will be placed on exploring what is practicable in the everyday administration of their duties. The paper will further focus on the responsibilities and obligations of the elementary and secondary teacher and how they can effectively do their job without unnecessary risk of being sued.

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## Introduction:

The purpose of this paper is to be a practical guide for classroom teachers to help them avoid being named in a lawsuit. This should be a concern to many teachers because the number of such cases has grown at an alarming rate.

John C. Hogan (1974) reports that in the more than one hundred years between 1789 and 1896 there were 3,096 "cases which have affected the organization, administration, and programs of the schools." By contrast in the five-year period between 1967 and 1971, Hogan shows that there were 3,510 such cases. Almost five hundred more cases in this five-year period (3,510) than in the previous one-hundred-year period (3,096). Not all of these suits are by, for, or about teachers, but we believe these numbers reflect the trend in the classroom field and may, in fact, underestimate the magnitude of the problem."

Rennard Strickland (1976) believes that "Million dollar suits against teachers are becoming commonplace". "Even the most conscientious teacher may face this nightmare. It would be hard to find a more dedicated teacher than the woman in a western state who was so interested in the welfare of her pupils that she regularly scheduled special safety lectures and programs as part of their class work. How ironic that at one of these outdoor safety lectures a young boy should absent-mindedly flip a knife that accidentally struck the drawing board of a fellow student and then bounced into that student's eye. Tragically, the boy lost his eyesight and the teacher lost her career".

"Even if this teacher had been ultimately vindicated by a jury, she would have paid a high price. Undoubtedly the trial itself would be a severe emotional strain. Newspapers would carry the story of her suit and of the trial. Parents and students would remember that her judgment and her conduct had been tested in a court of law. Legal fees would probably continue to plague her. And in this day of teacher surplus, even her job, her livelihood, might be in jeopardy". (Strickland 1976)

It is helpful to know how the courts have ruled in the past and how they may rule in the future based on current laws. Teachers can then decide, with knowledge of the facts, how they want to proceed.

No teacher wants to be involved in a lawsuit. You may believe that even if one were brought against you, you would have no trouble defending your position. This may be true, but would you want to go through the aggravation, stress and time of going to court to answer for your actions? Remember that the case may be brought years after the questionable actions took place.

Recognize the danger points. "Teachers, given sufficient time to ponder a course of action, would, in most cases, ultimately choose the right one. However, teachers must make split-second decisions." (Strickland, 1976).

How, then, can teachers avoid putting themselves in danger of being sued? The bad news is that the number of lawsuits are growing, the amount of compensation asked for by the plaintiffs is rising, and even the most conscientious of teachers can make a single, momentary mistake which could result in a successful lawsuit against them. The good news is that teachers can do or avoid doing some things which will minimize the chance of a suit being brought against them.

This paper will discuss the many duties of the classroom teacher and look at these duties with an eye on the legal aspects of teacher liability. School Administrators and School Board members have other responsibilities and will not be the subject of this paper. There is a brief section on guidelines for principals included because many principals come from the ranks of the classroom teacher, some teachers aspire to become principals, and because it is worthwhile for educators to know what the legal responsibilities of their principal are.

### **Different Types of Laws for Different Types of Schools (Public & Private Schools)**

What type of school a teacher teaches in plays a big role in how the legal system will look at cases brought against that teacher. Public school teachers and administrators have to play by different rules than religious and other private schools. Because they get funding from the Federal Government public schools teachers, administrators, and board members must operate under the guidelines of the Constitution of the United States. Students in these schools are guaranteed the rights granted to them under the Constitution. These rights include: freedom of expression, the right not to participate in patriotic exercises, due process and equal protection, freedom prohibiting unlawful search and seizure, and freedom of dress. Religious and other private schools are governed under contract law. Religious schools operate under the Doctrine of Separation of Church and State and are a private institution because they do not receive funding from the government. These schools offer a contract to their students. The terms of the contract are usually spelled out in a Student or School handbook. The compensation for the school comes in the form of tuition. Students in religious and private schools do not have the same rights under the Constitution that students in public schools do.

## **Tort Liability**

The four main types of educational tort cases are: corporal punishment; search and seizure; defamation of character; and negligence. Negligence suits outnumber the other three put together. (Shaughnessy, 1991).

LaMorte (1996) defines a tort as a civil wrong in which one suffers loss as a result of the improper conduct of another. Thomas, Sperry, and Wasden (1991) claim that "the time and money involved when teachers, administrators, and school boards are named in lawsuits for alleged torts, the rising cost of liability insurance, and the negative publicity that often accompanies suits mandate that educators become aware of their rights and responsibilities under tort law".

Civil courts become involved in tort cases whenever one person alleges that another person has intentionally or negligently caused an injury and the injured party seeks damages.

Almost all tort actions arise under state law, however, with the interpretation of Section 1983 of the Civil Rights Act of 1871 as a federal tort law under which victims of unconstitutional infringement of their civil rights are eligible for damages, some cases are being heard in the federal court system.

Thomas, Sperry, and Wasden (1991) discuss the types of torts an educator can be sued for, what the plaintiff must show to prove injury, and what types of damages can be assessed. "Three types of common law tort actions have been identified: intentional, strict liability, and unintentional. The perpetrator of an intentional tort meant to do injury or proceeded to act with disregard for whether or not an injury would occur. Strict liability involves behavior that automatically results in liability if an injury occurs. An unintentional tort is committed when a person is negligent and should have anticipated that an injury would occur and taken appropriate action to preclude it. Almost all tort cases involving teachers stem from claims of negligence".

The criteria that determine whether or not an unintentional tort has occurred have been refined over time and adapted by the courts to apply to situations today. To sustain a claim of negligence in court, the injured party must show that the claim meets all prerequisite standards:

1. A legal duty of care was owed to the injured party.
2. That duty of care was breached by the perpetrator.
3. The negligent act was the proximate cause of the injury.
4. Real harm or an actual injury was suffered by the party bringing suit.

If a claim of tort fails any one of these elements of proof, the suit will be dismissed. Because the remedy in tort is payment of damages, the courts have identified several types of damage awards. Actual or real damages compensate the injured party for the documented cost of the injury. Compensatory damages attempt to bring the injured party to the position in which he or she would have been had the tort not occurred. Punitive damages are levied to punish the tortfeasor, and nominal damages are awarded when damages are required by law but the court determines that the injured party is eligible for only a minimal amount. (Thomas, 1991).

### **Nine Legal Principles that apply to Educators.**

There are nine legal principles that educators should be familiar with (Thomas, 1991). Knowledge of these principles will be handy if s/he are accused of tortious actions.

#### **Principle I -- In Loco Parents**

Because a public school teacher assumes an in loco parentis relationship to the students in his or her charge, the teacher has a legal responsibility to provide for the student's health, safety, and welfare. Failure to fulfill this duty may lead to the teacher being charged with a tort.

#### **Principle II -- Intentional Torts**

Intentional torts are actions undertaken by a tortfeasor with the knowledge and intent to harm another person. Many intentional torts may involve criminals well as civil elements.

Typical cases arising from this principle involve assault and battery charges stemming from Corporal punishment.

#### **Principle III -- Strict Liability**

Strict liability involves intentional behavior for which the tortfeasor is automatically liable if any damage or injury results.

#### **Principle IV -- Negligence**

An unintentional tort is a negligent action that a reasonable and prudent person would not have done, or the failure to do something that a reasonable and prudent person would have done in a similar situation. The negligent action becomes the proximate cause of an injury to a person to whom a duty of care is owed by the tortfeasor.

#### **Principle V -- Foreseeability**

A public school teacher may be charged with negligence if he or she does not anticipate and take action to prevent an event that could reasonably have been foreseen as a potential threat to the safety or welfare of students.

### **Principle VI -- Assigned Duties**

A public school teacher may be charged with negligence if he or she fails to fulfill assigned duties and that failure leads to the injury of a student.

### **Principle VII -- Contributory Negligence**

Actions by the injured student may result in his or her being charged in a tort action with contributory negligence, which may decrease the teacher's liability. However, students are not expected to have the same degree of foresight, caution, or judgment as a teacher.

### **Principle VIII -- Assumption of Risk**

A student assumes some risk when he or she knowingly participates in activities known to involve some inherent hazard. A teacher is responsible for instructing students about risks and in correct procedures to reduce the chance of injury, for ensuring that equipment and facilities are safe, and for maintaining a safe instructional environment.

### **Principle IX -- Federal Torts**

Teachers and other school officials may be held personally liable under the federal tort law if they knew or reasonably should have known that they were violating a student's constitutional or civil rights.

In their book, Avoiding Teacher Malpractice, Strickland, Phillips and Phillips, offer some practical advice for teachers in the areas of supervision, corporal punishment, student learning, libel and slander and private life away from school.

## **Negligent Conduct and Supervision: The Duty to Keep Your Eyes Open**

As a practical matter the majority of lawsuits against teachers for malpractice arise primarily from a failure to supervise properly. These civil actions (generally called "tort questions") regarding supervision arise in two basic categories: 1) Where the teacher fails to supervise, and 2) where the teacher supervises improperly.

The courts require that a teacher act with the highest standards of care. Teachers have a legal duty to act with utmost prudence - not as a reasonably prudent citizen of the general population, not even as a good parent would behave, but as one who possesses special skills and training.

Negligence is conduct that falls below this minimum standard, and such negligent conduct may result in the assessment of monetary damages against the teacher.

Once you allow students into the classroom you are responsible for their safety. A teacher, motivated by inclement weather, allowed children into the classroom before school. The teacher was then called to the office, and one child stabbed another during the teachers absence. The teacher was help personally liable even though the day had not formally begun and she was not present in the classroom. (Strickland, 1976).

Playground supervision: There is a need for a Comprehensive Plan. The absence of such a plan can mean the difference between winning or losing a lawsuit.

#### **Guidelines in Supervision: (Strickland, 1976).**

1. The teacher is charged with responsibility as a supervisor wherever and whenever functioning in the teaching role.
2. Students should never be left alone in the classroom or on the playground; nor should they attend extracurricular events alone.
3. Each school must operate under a comprehensive plan of school playground supervision.
4. The teacher has a duty to warn students of inherent dangers and give detailed safety instruction.
5. Adequate supervision requires attentiveness as well as actual physical presence. You are as liable for doing your duty poorly as you are for not doing your duty.

Your first line of defense in a lawsuit brought for negligence when someone is injured should be: "Yes, I was present." If you were not present, it can be very damaging to your case. It should also be noted that the level of supervision required will depend on the age, maturity and skill level of the students. Younger children generally require more supervision than older, more skillful, students.

#### **Responsibility for Learning: Accountability, Curriculum, New Teaching Methods and Techniques**

In 1970 President Nixon made accountability the official educational philosophy when he stated: "School administrators and school teachers alike are responsible for



their performance, and it is in their interest as well as in the interest of their pupils that they be held accountable." (Strickland 1976).

### **Guidelines in Methodology**

1. Formulate student-oriented behavioral goals in your teaching, and strive for an accomplishment of these goals that can substantiate your accountability.
2. Be cautious of the use of obscenity in the classroom. Take into account the age and maturity level of your students
3. Controversial curriculum such as sex education should be taught only under district approval and within specified guidelines.
4. Use of student helpers as a method of teaching involvement and responsibility must reflect the student's experience and capabilities.
5. All potentially hazardous activities, from field trips to classroom experiments, must be carefully supervised to avoid liability.

### **Obscenity in the Classroom**

Now teachers not only have to think about the materials that they assign but with the coming of the computer as a standard classroom tool and many schools looking to hook into the Internet, teachers will have to determine how they will effectively keep students from material that they should not see.

### **Libel, Slander, and Privacy**

Slander is the legal term assigned to oral communications in which the speaker wrongfully defames or maligns the character of a third person, which communication brings about a lessening of opinion regarding that third person in the mind of the listener. Libel is the legal term for written defamation. Legal action for defamation is a remedy for only those statements that are untrue. (Strickland, 1976).

The burden of proof is on the person who made the libelous or slanderous statements. When writing or making negative remarks, it is safer to limit your comments to observable or provable comments. Even if your opinion is reasonable it is better to say that a student failed to turn in certain assignments rather than the student is lazy and has no ambition.

The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, make this an important area for teachers to understand. Teachers should know that their statements can be used against them. The Buckley Amendment gives parents and students the "right to inspect and review any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use

to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns and 2) Parents shall have an opportunity for a hearing to challenge the content of their child's school records." (LaMorte, 1996)

Because of the Buckley Amendment, it is especially important that you not include anything in a student file which is inaccurate, degrading or otherwise libelous.

### **Guidelines Regarding Libel and Slander (Strickland 1976)**

1. Limit discussion of, and written statements about individual students and fellow educators to statements that you know to be true.
2. Limit discussion of, and written statements about, individual pupils and fellow educators to statements that have a valid educational purpose.
3. If you must make possibly damaging and controversial statements you know to be true and which you believe to have an educationally valid purpose, retain the evidence from which you drew your conclusions.
4. Ask yourself if the evidence of truth of a damaging statement would hold up in court. Ask yourself if it's the sort of evidence that a jury of your neighbors would believe. If not, reconsider making your statements.
5. Remember that parents and pupils have expanded rights to examine documents under the Buckley Amendment. Consider the third persons outside the school may see or hear your statements.
6. Never make statements or write reports in the heat of anger. Delay saying potentially dangerous, damaging, or libelous things.
7. Whenever possible talk directly to persons involved to determine the source of damaging statements and to verify the truth.
8. Before making or writing any statement, ask if it holds another up to contempt, hatred, or ridicule. If so, be especially sure of the truth of the statement and of the educational purpose in repeating it.
9. Never ever expect that statements made in confidence to pupils or in the teachers' lounge will not be repeated.

### **Civil Liberties of Teachers**

Teachers enjoy some freedoms that they should be aware of. We have come a long way since the typical contract offered to teachers in 1920 when some teachers signed contracts where they promised not to fall in love or to become engaged or secretly married. (Fisher and Schimmel, 1973) Some of these rights include: freedom of

association, of religion, of dress and grooming and freedom regarding the Pledge of Allegiance.

### **Guidelines in the Civil Liberties of Teachers (Strickland, 1976)**

1. As a teacher you enjoy freedom of speech and assembly, but this may be restricted by your position as an example for your students. Any support of an unlawful conduct is clearly subject to restriction.
2. Although your mode of dress need not follow student standards, reasonable and nondiscriminatory rules must be generally followed.
3. Your freedom to teach and your selection of subject matter must reasonably relate to the age and maturity level of your students.
4. Employment can not be conditioned on any political or religious belief or limited by membership in most organizations, nor can a teacher be required to salute the flag.
5. Your responsibility as a teacher carries over into your private life. The commodity you deal in is human minds. The standard to which you are held is high but should not be arbitrary, capricious, or unrelated to sound educational objectives.
6. A school board generally has the right to dismiss a teacher for cause unless such dismissal can be shown to be arbitrary, irrational, unreasonable, or irrelevant. The right to teach is a privilege, not a right.
7. Because of the sensitive position as role model, a teacher's private life-style is subject to scrutiny and may be the basis for dismissal.
8. The teacher is in a fiduciary position with respect to school funds and must deal with such funds in the most careful of manners.

### **Before and After School: An Example of the Pervasive Threat of Suit Additional Guidelines (Strickland, 1976)**

1. If you must send children home during the school day, make contact with the parents first.
2. Remember that your responsibility does not necessarily walk out the door at the end of the day with your students.
3. Schools may generally discipline pupils for misconduct on their way to school and/or on their way home from school. Whether schools have a duty to so discipline is questionable.
4. Use of school facilities for after-school activities subjects the school district to additional liability. If the rattlesnake you are using in your science learning center escapes and bites a Cub Scout, you may be held responsible.
5. Your status as a teacher extends into your private life. In a very real sense, you may find yourself living in a goldfish bowl. (Strickland p. 106)

## **Principals can be Sued Too**

In the case of *Kansas v Stein* 1969, a Principal was sued for cooperating with the police in an investigation that led to the search and recovery of stolen goods from a student's locker. (LaMorte, 1996)

## **Guidelines for Principals (Strickland 1976)**

1. The principal must be prepared to assume the basic obligation for the management and operation of the entire school.
2. The principal must formulate the overall student behavioral goals for the school.
3. The principal must oversee the teacher determination of the behavioral goals and provide that such goals are met.
4. Principals, in establishing the educational program, must exercise reasonable care in selecting the components, adequately supervise implementation, continually evaluate effectiveness, and regularly review teacher-pupil performance.
5. A principal must have a comprehensive plan for building safety and playground supervision that systematically locates potential trouble spots and effectively deploys man power resources.
6. The principal must enlist cooperation of all school system employees to periodically locate and review defective equipment and potentially dangerous conditions.
7. The principal must prepare students and teachers for emergency situations such as fire drills and smog alerts.
8. A principal's basic liabilities continue even when facilities are being used by non-school groups, which may necessitate an even more comprehensive and vigorous supervisory and maintenance plan.
9. The principal must exercise due care in the release of children, especially to nonparents or parents restricted by court orders.
10. The principal must be prepared to show that serious disturbance of the educational process will result before restricting the exercise of the constitutional rights by both pupils and teachers.
11. The principal may be liable for employing and retaining inadequate or incompetent teachers and substitute teachers.
12. Principals may not arbitrarily or capriciously discipline, expel, or suspend students without due process.
13. Principals should not interfere with student publications unless the questioned material is clearly obscene, libelous, or creates a clear and present danger of the immediate material and substantial disruption of the educational process.
14. Principals may control the place and time of disruption of student publications in order to prevent disruption of the school operation.
15. Principals should carefully guard against the accumulation and distribution of student records that might injure students.

## **Teacher as Counselor**

Negligence is an unintentional act or omission which results in injury. Sometimes teachers will need to make decisions about situations that have been told to them or that they have reason to believe is true. Classroom teachers may not think of themselves as guidance counselors and may not feel they are properly trained in this area. This may not help when it comes time to make a decision about what a student has told you in confidence. Should all things told in confidence be kept that way? Are you obliged to make sure those in your charge are as safe as possible? Which of these two conflicting responsibilities takes priority?

When you make a decision in this area, you may want to lean toward a decision based on the safety and well being of your students. The courts will expect you to do everything reasonable to protect students from harming themselves and others. What about if a student is being sexually harassed by another student? Or by a teacher? What is your responsibility here? The best advice is to tell someone in administration who can effectively deal with the potential problem and let them decide how the problem should be handled. Many times they have been trained or know someone who has been trained who can give good advice about how to handle the problem. You have done your job in reporting what you have heard to the proper administrators.

## **Reporting Child Abuse**

The failure to report suspected child abuse and/or neglect is a special kind of negligence. Educators who fail to report can incur both civil and criminal penalties. Every state has a law mandating that educators report suspected abuse and neglect.

## **Classroom Management**

In the classroom you should preview all materials before showing it to students especially if it is of a controversial nature. Teachers have lost their jobs because they have shown material which was deemed to be inappropriate to the students they were teaching.

Whenever using special equipment, teachers should show the students how to use the equipment safely and effectively. It is the responsibility of the teacher to make the students aware of how special equipment should be safely and effectively used. This applies to equipment that is used in labs, gyms and other equipment of special nature. With more and more students going on-line and using the internet, it is also important that teachers become aware of the dangers of students going into areas that

are inappropriate. Again, the teacher's responsibility is to teach the students where they may go and where they may not.

It is a good idea of getting into the habit of explaining to students how you would like them to behave before they begin a project or activity. Even something as simple as a cooperative learning activity where students are required or permitted to move their chairs and seats around. The teacher should explain how this can be accomplished without compromising the safety and welfare of the students involved.

Teachers should be careful when using students as helpers. Teachers sometimes need to send students on errands. It is usually a good idea to have them go in groups of two, especially if they are required to travel outside the building. Make sure they are of the proper age and skill level to safely carry out the assignment.

### **Prayer in Public School.**

If you are teaching in a public school and you lead the students in prayer, you are inviting a lawsuit based on the Doctrine of Separation of Church and State. When a kindergarten teacher implemented the practice of the following poem in an attempt to instill good manners and awareness of world beauty, she was successfully sued. (Strickland, 1976).

The poem read as follows:

We thank you for the flowers so sweet;  
We thank you for the food we eat;  
We thank you for the birds that sing;  
We thank you for everything.

### **Field Trips**

Field trips pose a special concern to teachers and their liability in terms of safety of students. Follow the recommendations of the district in which you teach and make sure you get the proper forms signed by the parents. Most teachers believe that having this form signed by the parents relieves them of any liability should the student become injured. The parents and the student can never sign away their right to sue. Mostly what these forms do is make sure that the parents are aware of where their children are. It would be a precarious situation if you had to call a parent to tell them that their son/daughter was injured on a field trip and they did not know or give permission for their child to be away from school.

It is important to realize that if you give a student a ride, especially a student of the opposite sex, you may be opening yourself up to a lawsuit. You should realize that the opportunity is there for something to go wrong. At the very least you may be involved in an accident that is not your fault. The injured parties in your vehicle may sue you to recover the cost of medical treatment. Teachers should be aware that they are taking on this responsibility before you offer a ride to a student.

### **Guidelines for Corporal Punishment (Strickland, 1976)**

Baker v Owens is a test case for Corporal Punishment. The courts have given us a general outline of "those minimal procedures necessary to protect the student's interest without undercutting the disciplinary value of punishment."

The following are a few of the universally accepted legal principles relating to corporal punishment. (Strickland, 1976)

1. The teacher stands in loco parentis and, since order must be maintained, may punish to fulfill this function.
2. In no case may the punishment be more than is deemed reasonable.
3. Application of punishment must not be arbitrary, capricious, or without relation to the child's behavior.
4. The punishment must not be so severe as to seriously or permanently injure the child.
5. Punishment inflicted must take into account the child's age, maturity, size, sex, and physical limitations.
6. Punishment should not be inflicted for malicious motives or purposes of retribution.
7. Punishment may be so motivated, so severe, and so unjustifiable as to amount to a crime for which the teacher may be subject to fine, or imprisonment, or both.

### **Guidelines Regarding Discipline (Strickland, 1976)**

1. Check to see that your state or school district regulations do not specifically forbid corporal punishment. (Strickland, p. 50)
2. Punish no more than is reasonable under the circumstances, taking into account the child's age, maturity, size, and physical condition.
3. Never punish so severely as to cause permanent damage.
4. Only discipline children for a proper purpose and with relation to the child's behavior in question.
5. Punish children in the presence of another adult.
6. Restrict physical punishment to student of your own sex.

7. Do not inflict corporal punishment on a child against specific written request of the child's parent.
8. Do not attempt to curtail a symbol of student self-expression that is not disruptive.
9. Do not ban student self-expression if alternative methods of minimizing the disruptive effect are available.
10. Base any disciplinary action on reasonable school rules that are neither arbitrary nor discriminatory.
11. Ask yourself if there are other discipline alternatives.

Be sure you have rules for reasonable reasons. There must be a rule which provides that all students are dealt with similarly. When searching a student for contraband - there must be reasonable suspicion to search a student.

### **What Should you do If you Think you might get Sued**

If you believe that you have been party to something which may later involve a lawsuit, you should speak to potential witnesses. You should gather potential evidence, because down the road it may be impossible to gather the same evidence. Speak to those individuals who can help your case or who have a clear understanding of the situation and how it occurred. Speak to the principal and/or administrator of the school to make sure that they are aware and they can gather the necessary tools that are at their disposal should the lawsuit be brought. It may be wishful thinking on the teacher's part that a lawsuit would not occur, but it is better to be prepared.

It is a good idea that whenever a potentially confrontational situation arises, there be witnesses as to what took place. These witnesses could become witnesses for you if a lawsuit should arise from such a meeting.



## **Conclusion**

The threat of a lawsuit can be real even for the most experienced and careful teachers. Knowing this and keeping it in mind will help most teachers think about their actions and plan for some potentially delicate situations.

It is important to be forewarned and equally important to have a working knowledge of the laws that pertain to you as a teacher. Read the student and faculty handbook that is provided for you by your school or district. Inform your administrators of problems or potential problems so that they can work to head these problems off.

No teacher wants to be sued and with a knowledge of the education laws, you should be able to avoid this from happening to you.

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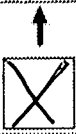
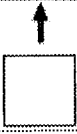

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