

LAW AND GOVERNANCE

EDLD 607 - Spring 2003

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1. Course Description

An overview of the legal systems and governance structure of public schools, and the legal issues that face school employees. Issues that will be explored include a review of the American legal system, the governance of public education, discrimination, laws related to disabilities, sexual harassment, student rights and responsibilities, family rights, and teacher rights. Also includes monitoring and discussion of relevant current events.

2. Objectives

- To increase knowledge of the legal systems that have a direct impact on public education.
- To increase knowledge of the role of the federal and state governments and local school boards in the governance of public education.
- To increase knowledge about the legal authority and limitations of state and federal governments and local school districts (including school employees). Examples include discrimination, due process, student rights and discipline, family rights, and professional liability.
- To apply the increased knowledge to specific situations that are likely to arise in the day-to-day operation of schools.
- To be aware of the impact of relevant current events on public schools.

3. Course Material

- LaMorte, Michael W. (2002, 7th ed.). *School Law: Cases and Concepts*. Allyn and Bacon. (Available from the UO Bookstore and on Reserve)
- *Oregon Laws Relating to Public Schools and Community Colleges*. (2001). (Available from UO Bookstore and on Reserve) Relevant laws may also be access via Internet. (www.leg.state.or.us/ors/)
- Eugene School District 4J. (2001) Student Rights and Responsibilities Handbook. (Will be distributed)
- Various other print and Internet resources noted in the course syllabus or provided as part of course presentations.

4. Requirements: Attendance, preparation, and participation.

5. Evaluation

Through reading, lecture, and discussion students will be responsible for the expectations noted in the course syllabus.

There will be three take-home written assignments that cover material presented in class and in reading assignments. The first two written assignments, which will be distributed at the end of class on April 14 and May 5, will be due at the beginning of the next class (April 21 and May 12). Students who are not satisfied with their performance on the first two written assignments will have one opportunity to resubmit them. The two scores will be averaged. The assignment must be re-submitted the following week (April 28 and May 19) to be considered.

The final written assignment will be distributed during the last class session on June 2 and will be due no later than 3:15 p.m. on Thursday, June 12. The final written assignment may include material from any portion of the class.

The written assignments will require short written responses that demonstrate knowledge and application of government structure, law, and court cases. They will be open book and open note, but students are expected to work independently, that is students may not consult with one another while completing the assignments.

6. Grading (Total Course Points: 100)

A	100-85	<i>Students may receive the following points for each written assignment.</i> <ul style="list-style-type: none">▪ Written Assignment 1 = 25▪ Written Assignment 2 = 30▪ Written Assignment 3 = 45
B	84-75	
C	74-65	
D	64-55	
F	54-	
The instructor reserves the discretion to award + or – grades.		

7. **Schedule** (*subject to change*)

See descriptions below for detail and expectations

March 31	<ul style="list-style-type: none"> ▪ Orientation ▪ Sources of Law
April 7	<ul style="list-style-type: none"> ▪ Judicial System ▪ Role of Federal, State and Local Government in Education ▪ Discrimination and Equal Protection
April 14	<ul style="list-style-type: none"> ▪ Guest Speaker: Tom Henry, 4J Assistant Superintendent for Instruction, will discuss federal and state laws related to education reform ▪ Discrimination and Equal Protection ▪ Discrimination and Equal Protection
April 21	<ul style="list-style-type: none"> ▪ Guest Speaker: Debra Depew, a parent and advocate, will discuss issues that teachers should be sensitive to when they work with special needs students and their families ▪ Disability
April 28	<ul style="list-style-type: none"> ▪ Disability ▪ Sexual Harassment
May 5	<ul style="list-style-type: none"> ▪ Student Rights ▪ Second Written Assignment
May 12	<ul style="list-style-type: none"> ▪ Student Rights ▪ Family Rights
May 19	<ul style="list-style-type: none"> ▪ Teacher Rights ▪ Liability (Guest Speakers Sue Archibald, retired elementary teacher, and David Brewer, risk manager for District 4J, will discuss issues related to teacher liability)
May 26	MEMORIAL DAY HOLIDAY
June 2	<ul style="list-style-type: none"> ▪ Copyright ▪ School Choice ▪ School Funding ▪ What does the future bring? Guest Speakers Jan Oliver (School Board Chair and Associate Vice President at the University of Oregon) and Paul Duchin (President of the Eugene Education Association) will discuss the future of education ▪ Third Written Assignment

A. Sources of Laws

Expectation:

Students will be able to discuss the sources of law in the United States at the federal, state, and local level, how they interact, and their relevance to public education.

Readings:

- LaMorte, Chapter 1, Educational Governance: Sources of Law and the Courts, pp. 1-18.
- LaMorte, Excerpts from the United States Constitution, pp. 429-434.

B. Judicial System

Expectation:

Students will have a general understanding of the state and federal judicial systems in the United States and their relevance to public education.

Readings:

- LaMorte, Chapter 1, Section II, The American Judicial System, pp. 14-18.
- Oregon Blue Book Judicial Branch Home Page.
(<http://bluebook.state.or.us/state/judicial/judicial.htm>)

C. Role of Federal, State, and Local Government in Education

Expectation:

Students will be able to discuss the role of federal and state governments in the local operation of schools, the administrative structure of local school districts and how they operate, and will have a general understanding of how federal and state education reform laws directly impact how teachers provide

instruction. (Note: Guest Speaker on April 14: Tom Henry, Assistant Superintendent for Instruction, Eugene School District 4J, will discuss federal and state laws related to education reform)

Readings:

- LaMorte, Chapter 1, Section 1, Sources of Law, pp. 3-14.
- Oregon Laws Related to Public Schools and Community Colleges (peruse).
- Site-Councils: ORS 329.704, Local 21st Century Schools Councils, duties; composition; selection; district site councils.
- No Child Left Behind Act: Major Changes to ESEA in the No Child Left Behind Act.
(<http://www.learningfirst.org/pdfs/nochildleft.pdf>)

D. Discrimination and Equal Protection

a. The Foundation: Race

Expectation:

Students will be able to identify and discuss the two major concepts in the 14th Amendment to the United States Constitution that protect citizens from arbitrary or capricious actions by the government. Students will be able to discuss the significance of Brown v. Board of Education and the impact it has had and continues to have on public education.

Readings:

- LaMorte, Excerpt from the 14th Amendment, p. 433.
- LaMorte, Chapter 5, School Desegregation, pp. 269-304.

b. Federal Discrimination Laws

Expectation:

Students will be able to identify the major provisions of Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, The Civil Rights Act of 1991, Title IX of the Education Amendments of 1972, the Pregnancy Discrimination Act of 1978, and the Age Discrimination Acts of 1967, 1978, and 1986.

Readings:

- LaMorte, Section VII, Chapter 4, Employment Discrimination, pp. 240-259.
- LaMorte, Excerpts from Title VII, the Pregnancy Discrimination Act, the Age Discrimination Acts, and Title IX, pp. 435-441.

c. Oregon Discrimination Laws

Expectation:

Students will be able to discuss Oregon's provisions related to nondiscrimination and how they apply to public education.

Readings:

- Non-Discrimination in Education: Oregon Statutes and Regulations (handout)

d. Local Policies

Expectation:

Students will understand that local school districts are required to establish their own discrimination policies that may be more expansive than state and federal laws.

Readings:

- District 4J, Nondiscrimination and Harassment: An Overview of the Revised Policy and Complaint Procedure, Fall 1998 (handout).
- District 4J, Student Rights and Responsibilities Handbook Nondiscrimination and Harassment, pp. 12-15.

E. Laws Related to Disability

(Note: Guest Speaker on April 21: Debra Depew, a parent of a special education student and advocate, will discuss issues that teachers should be sensitive to when they work with special needs students and their families.)

a. An Historical Note

Expectation:

Students will be able to describe the practice of providing services for students with disabilities prior to the 1970s and the Pennsylvania Association for Retarded Children (PARC) v. Pennsylvania and Mills v. Board of Education decisions.

Readings:

- LaMorte, Introduction to Chapter 6, Individuals with Disabilities and the Law, pp. 305-307.

b. Federal Statutes

Expectation:

Students will be able to describe the three major statutes that protect individuals with disabilities:

(1) Section 504 of the Rehabilitation Act of 1973

Students will be able to describe how Section 504 applies to students; understand the legal responsibilities teachers have for making reasonable accommodations for students with disabilities; and will be familiar with the type of accommodations teachers may be expected to make for students with disabilities.

Readings:

- LaMorte, Excerpt from Section 504 of the Rehabilitation Act of 1973, p. 441.
- LaMorte, Chapter 6, Section II, Section 504 of the Rehabilitation Act, pp. 332-345.
- District 4J, Nondiscrimination and Harassment: An Overview of the Revised Policy and Complaint Procedure, Fall 1998 (handout).

(2) Individuals with Disabilities Education Act (IDEA)

Expectation:

Students will be able to describe the major provisions of IDEA and a teacher's role in the provision of special education.

Readings:

- LaMorte, Chapter 6, Section I, The Individuals with Disabilities Education Act, pp. 307-332.
- Oregon Department of Education, Early Intervention/Early Childhood Special Education. (<http://www.ode.state.or.us/sped/spedareas/eiesce/early.htm>)

(3) The Americans with Disabilities Act of 1990 (ADA)

Expectation:

Students will be able to discuss the breadth of protections provided to individuals with disabilities by the ADA.

Readings:

- LaMorte, Chapter 6, Section III, The Americans with Disabilities Act, p. 345.

F. Sexual Harassment

Expectation:

Students will be able to discuss the major components of sexual harassment within a school setting and in employment.

Readings:

- U.S. Department of Education, Office of Civil Rights, "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (Title IX)," 2001 (handout).
- U.S. Equal Employment Opportunity Commission, "Facts About Sexual Harassment (Title VII)," 1997 (handout).
- U.S. Equal Employment Opportunity Commission, "Q&A About Sexual Harassment (Title VII)," (handout).
- U.S. Equal Employment Opportunity Commission, "Policy Guidance on Current Issues of Sexual Harassment Title VII," 1990 (handout).
- District 4J, Policy 2435, Sexual Harassment (handout).
- District 4J, Student Rights and Responsibilities Handbook, Nondiscrimination and Harassment, pp. 12-15.
- LaMorte, Chapter 8, Damages under Title IX, pp. 395-405.

G. Student Rights and Responsibilities

a. Speech

Expectation:

Students will be able to discuss the standards established by the Supreme Court related to a student's freedom of expression: *Tinker v. Des Moines Independent Community School District*, *Bethel School District No. 403 v. Fraser*, *Hazelwood District v. Kuhlmeier*, and *Sherman v. Community School District 21*. Students will be able to apply these standards to specific speech issues.

Readings:

- LaMorte, Chapter 3, Section I, Freedom of Expression, pp. 95-119.
- LaMorte, First Amendment, p. 431.
- District 4J Student Rights and Responsibilities Handbook: Freedom of Expression (pp. 3-6), Dress and Grooming (p. 87), and Gang Activity (p. 98).
- ORS 339.875, Procurement, display, and salute of flags.

b. Religion

Expectation:

Students will be able to apply current law related to religion that may arise in public schools.

Readings:

- LaMorte, Chapter 2, Section II, Religion in the Schools, pp. 29-86.
- LaMorte, First Amendment, p. 431.
- LaMorte, Excerpts from the Equal Access Act of 1984, pp. 443-445.
- District 4J Administrative Rule 4160, Separation of Church and State (handout).
- District 4J Student Rights and Responsibilities Handbook, Freedom of Religion, p. 11.
- ORS 327.109, Procedure if school district or charter school alleged to be involved in religious activity; complaint, investigation, finding, effect.
- ORS 339.420, Child excused to receive religious instruction.

c. Assembly

Expectation:

Students will be able to identify what rights students have to free assembly.

Readings:

- LaMorte, First Amendment, p. 431.
- LaMorte, Excerpts from the Equal Access Act of 1984, pp. 443-445.
- District 4J Student Rights and Responsibilities Handbook, Assembly of Students, pp. 9-10.

d. Compulsory Attendance and Admission

Expectation:

Students will be able to discuss the compulsory attendance laws in Oregon and the conditions under which students are not required to attend public schools.

Readings:

- LaMorte, Chapter 2, Section I, Compulsory Attendance, pp. 19-29.
- ORS 339.010-137, Compulsory Attendance, Admission of Students, and Residency.
- ORS 339.280, Student grading policies; consideration of attendance allowed; policy content.
- District 4J Student Rights and Responsibilities Handbook, Admission and Attendance, pp. 16-18.

e. Student Fees

Expectation:

Students will be able to discuss when students in Oregon may be charged fees for participation in school activities.

Readings:

- LaMorte, Chapter 2, Section V, School Fees, pp. 86-90.
- ORS 339.155, Prohibition of certain fees as condition of admission; allowable fees.

f. Search and Seizure

Expectation:

Students will be familiar with the standards regarding search and seizure established in *New Jersey v. T.L.O.* Students will be able to discuss the conditions under which school personnel may conduct a search and how the search is to be conducted.

Readings:

- LaMorte, Chapter 3, Section IV, Search of Students and Lockers, pp. 143-155.

- District 4J Student Rights and Responsibilities Handbook, Search and Seizure, pp. 23-24.

g. Threats by Students

Expectation:

Students will be able to discuss the actions that school personnel in Oregon are legally required to take when they become aware that a student has threatened another student or a staff member.

Readings:

- ORS 339.325, Notification required if name appears on targeted threatening list or when threats of violence or harm made; civil immunity.
- ORS 339.327, Notification required if person possesses weapon and threatening list; immunity.
- District 4J, Temporary Guidelines: Notice of Threats of Violence to Students and Staff, 1999.

h. Student Discipline

Expectation:

Students will be able to discuss the range of disciplinary procedures available to them and when they are appropriate to use. Students will understand the protections that are afforded students who are facing disciplinary action, particularly suspension or expulsion from school.

Readings:

- LaMorte, Chapter 3, Section II, Suspension, Expulsion, and Disciplinary Transfer, pp. 120-137; Section III, Corporal Punishment, pp.137-143; and Section VII, School Punishment for Out-of-School Offenses, pp.173-175.
- ORS 339.240-339.280, Student Conduct and Discipline.
- District 4J Student Rights and Responsibilities Handbook, Serious Misconduct (pp. 26-29) and Disciplinary Procedures (pp. 30-35).

H. Family Rights

a. Reporting of Child Abuse

Expectations:

Students will understand and be able to describe their requirements to report possible child abuse.

Readings:

- ORS 419b.005, Definitions.
- ORS 419b.010, Duty of officials to report child abuse, exceptions; penalty.
- February 13, 1998 Memo: Clarification: Duty to Report Child Abuse (handout).
- February 18, 1997 Memo: Reporting Requirements (Sexual Harassment and Pregnancy) (handout).

b. Student Records

Expectations:

Students will be familiar with the provisions of the Family Rights and Privacy Act of 1974 (Buckley Amendment) and their implementation in Oregon.

Readings:

- LaMorte, Excerpts from the Family Educational Rights and Privacy Act of 1974, pp. 441-443
- ORS 326.565, Standards for student records
- ORS 336.187, Disclosure of Personal Information About Students
- OAR 581-021-0220 through 581-021-0440 (Student Records) (http://arcweb.sos.state.or.us/rules/OARS_518/581_tofc.html)
- District 4J, An Important Notice to Parents About Education Records and the Release of Directory Information, 2000 (handout)

c. Confidential Communications with Students

Expectations:

Student will know under what circumstances their communications with students are confidential.

Readings:

- ORS 40-245 Rule 504-3, School-Employee-student privilege

d. Child Custody

Expectations:

Students will be sensitive to issues of child custody and generally understand the rights of custodial and non-custodial parents.

Readings:

- October 11, 1995 Memo, Child Custody (handout)

e. Administration of Medication

Expectations:

Students will understand Oregon laws related to administering medication to students, what is required before they agree to give medication to students, and what their liability is.

Readings:

- ORS 339.867, “Medication” defined
- ORS 339.869, Administration of medication to students; rules
- ORS 339.870, Liability of school personnel administering medication

I. Teacher Rights

Expectations:

Students will have a general understanding of:

- how state and federal employment laws apply to teachers, including wage and hour laws, affirmative action, and leaves
- laws related to collective bargaining and when teachers have the right to be represented
- laws related to non-renewal and dismissal, the activities that may or may not result in dismissal, and the process that is used in the dismissal of a teacher
- the rights a teacher has to expression and when a teacher’s expression may be limited (personal speech, academic freedom, and political activities)

Readings:

- LaMorte, Chapter 4, Teachers and the Law, pp. 176-268
- ORS Chapter 342, Teachers and Other School Personnel
- District 4J, School Board Policy 6900, Use of District Property (handout)
- District 4J, School Board Policy 8900, Dangerous Weapons and Firearms (handout)
- District 4J, School Board Policy 2490, Commendation and Criticism of Employees (handout)
- District 4J, School Board Policy 2440.1, Drug and Alcohol Abuse by Employees (handout)
- Notice Regarding Political Activities (Required by ORS 260.432), Attention all Public Employees (handout)

J. Liability

Expectations:

Students will be able to discuss when school employees may be liable under federal and state law, the kinds of acts that may result in liability, and the limits of liability that apply to public schools and their employees in Oregon. (Note: Guest Speakers on May 19: Retired elementary school teacher Sue Archbald will discuss the experience of being named in a law suit and District 4J Risk Manager David Brewer will review liability issues and the protections that teachers have in Oregon).

Readings:

- LaMorte, Chapter 8, Educator and School District Liability, pp. 383-414

K. Copyright

Expectations:

Students will know when and in what circumstances they are able to use copyrighted material.

Readings:

- Lane ESD, *Copyright Guidelines: A Manual for Lane Education Service District*, 2000 (handout).

L. School Funding and School Choice

Expectations:

Students will be familiar with national trends in the funding of public schools and, more specifically, how schools are funded in Oregon. Students will be familiar with the charter school movement and how it has been implemented in Oregon.

Readings:

- LaMorte, School Finance Issues, pp. 346-382
- ORS Chapter 338, Public Charter Schools

M. Law and Governance: What does the future bring?

Expectations:

Students will consider the legal and governance issues that will face educators over the next decade. (Note: Guest Speakers on June 2: Jan Oliver, Chair, Board of Directors, District 4J and Associate Vice President, University of Oregon; and Paul Duchin, President, Eugene Education Association will be present to discuss the future of public education.)

8. Course Guidelines

This course will be taught in compliance with UO and COE guidelines;

- A. Respect for Diversity: In this course, class discussions, projects/activities and assignments will challenge students to think critically about the impact of cultural, religious, gender, race, socioeconomic, physical and cognitive ability, and sexual differences. Students will be encouraged to develop or expand their respect and understanding of such differences.
- B. Student Conduct: COE Policy Regarding Termination of Students from Programs is contained in the COE Academic Policies and Procedures Handbook in Section A. According to this policy, students can be terminated from programs for three types of reasons: behavioral, academic and legal/ethical. Each program is responsible for developing a specific set of policies in regard to student termination. In addition, the COE termination policy is contained in the UO Bulletin.
- C. Students with Disabilities: Appropriate accommodations will be provided for students with documented disabilities. This documentation must come in writing from the Disability Services in the Office of Academic Advising and Student Services. To obtain this document contact Molly Sirois at 346-1155 or sirois@oregon.uoregon.edu. If you have a documented disability and require accommodation, please meet with the course instructor within the first two weeks of the term.