Basic FAQs About School Law For Teachers
September 13, 2012

1. What laws apply to the operation of the public schools?

**Texas Education Code**
Public schools in Texas are subject to multiple layers of laws and regulations at the federal and state level. The starting point is the Texas Education Code. This is a set of laws adopted by the Texas legislature that deals with almost every aspect of school operations, including teacher contracts, duty-free lunch, purchasing and bidding requirements, administration of standardized testing, minimum curriculum requirements, and student admission to school.

Many other laws apply to school districts and also apply to other governmental entities, such as a city or county. These include, for example, the Texas Open Meetings Act, the Texas Public Information Act, and certain sections of the Texas Health and Safety Code.

**State Regulations**
Most of the applicable regulations at the state level are adopted by the Commissioner of Education at the Texas Education Agency, but certain regulations from the Department of Health and the Department of Agriculture apply to schools also.

**U. S. Constitution**
Federal law comes into play on certain specific matters. The U. S. Constitution does not specifically provide for public education, but various provisions have been interpreted by the courts as protecting certain students’ rights. One example is the right to be free from unlawful discrimination based on race. (Note: *Brown v. Board of Education*) Another example is the right to “bodily integrity.” (Note: *Doe v. Taylor Independent School District*)

**U. S. Congress**
Congress can enact federal legislation that applies to schools through its funding powers. Two of the most prominent examples are special education and Title IX. Because the federal government provides some funding to public schools, it has adopted an extensive set of laws and regulations that states and schools must agree to abide by in order to access the funding. Congress can also enact civil rights laws, such as Title VII, which prohibits unlawful discrimination in employment.

**Federal Regulations**
The Department of Education issues federal regulations applicable to schools, such as the student confidentiality laws. Other agencies that adopt regulations applicable to school districts include the Department of Labor.
2. What is “school policy” and how does it get adopted?

School policy is adopted by the locally elected school board. The power of the school board is broad but policy cannot conflict with laws or regulations. Almost all Texas school districts subscribe to the “policy service” provided by the Texas Association of School Boards (TASB). TASB policy consultants assist the board in keeping the policies in line with state and federal requirements. Board policy is usually maintained on-line and is accessible from a link on the district’s web site.

3. What lawsuits are most often filed against classroom teachers?

Lawsuits are rarely filed against classroom teachers. The ones that are often allege some type of abuse or negligence that led to bodily injury of the student.

4. What lawsuits are most often filed against school districts?

Lawsuits involving school districts are usually aimed at the district, the board of trustees, and administrators such as the superintendent or principal. Lawsuits against school districts can come from employees or former employees who believe their rights have been violated, parents and students alleging a violation of their rights, or school patrons and taxpayers. Suits by employees typically allege that the district violated a law with regard to their wrongful termination of employment.

The most common lawsuit filed by parents and/or students alleges a violation of special education laws and procedures. Suits by parents and students also often allege a violation of the First Amendment involving free speech and use of social media, or violation of a student’s right to “bodily integrity” under the Fourteenth Amendment.

Suits by patrons and others typically allege a violation of a vendor’s contract or a failure to turn over records under the Public Information Act.

5. If a child under a teacher’s supervision is injured, is it likely the teacher will be held liable?

No. The general rule in Texas is that a teacher is not personally liable just because a student in his or her classroom was accidentally hurt at school. Texas has a statute to protect teachers from personal liability for injuries to students at school. There are few exceptions to this rule involving motor vehicles and use of force in disciplining a student.

6. What right does a teacher have to protect him or herself if physically attacked by a student?

Teachers have the same right as anyone else, i.e., the right to protect him or herself, but not the right to retaliate. Protecting oneself includes the right to use reasonable force if necessary. There is a fine line between “reasonable force to defend” oneself and “retaliation.” That line is drawn on a case-by-case basis.
7. **What responsibility does the teacher have to protect one student from another in the event of a violent attack or in the event of bullying?**

In the event of a violent incident at school, the teacher has the right and responsibility to take whatever action is reasonably necessary to prevent students from being injured. That can include calling 911 or other emergency assistance. A teacher is not obligated to get in between the students, however. Laws against bullying and harassment of students require the employee to report the incident and discipline for the misbehavior.

8. **What authority do a teacher have to exclude a student from class?**

Teachers can “send students to the principal’s office” in compliance with the rules of the campus. Exclusion requires that a process spelled out in the Education Code be followed. It requires a certain level of documentation by the teacher to show that the student’s presence in the classroom is disruptive or that the student has violated the Code of Conduct. The actual decision to exclude the student must be made by the principal or designee. If the student is identified as having a disability, any long term exclusion must be decided by the ARD committee (Admission, Review and Dismissal).

9. **Why is everything different, especially discipline, if the student is in a special education program?**

The Individuals with Disabilities Education Act (IDEA) requires that it be so. IDEA is the federal law that makes money available to states that agree to comply with it, and all states have. IDEA requires that the education of a student with a disability be developed by the ARD committee, and that the committee develop an individualized education plan (IEP). IDEA also requires that students with disabilities be served in the least restrictive environment (LRE).

As for discipline, the law requires that any removal of a special education student from his or her placement as required by the IEP for a period of 10 days or more be preceded by a determination that the misbehavior is unrelated to the disability or placement. One Supreme Court opinion says that school officials “must navigate a complex web of statutory provisions and … regulations that significantly limit its discretion.”

10. **If a student says something insulting about a teacher on Facebook, can the student be disciplined?**

It depends on several factors. If the activity was off-campus on the student’s own equipment, usually the school district has no authority to discipline the student unless the situation rises to the level of “material and substantial disruption” at school. If the activity rises to the level of a serious threat, law enforcement can be involved. If the activity was on-campus or on school equipment, the student can certainly be disciplined under the school’s Student Code of Conduct.