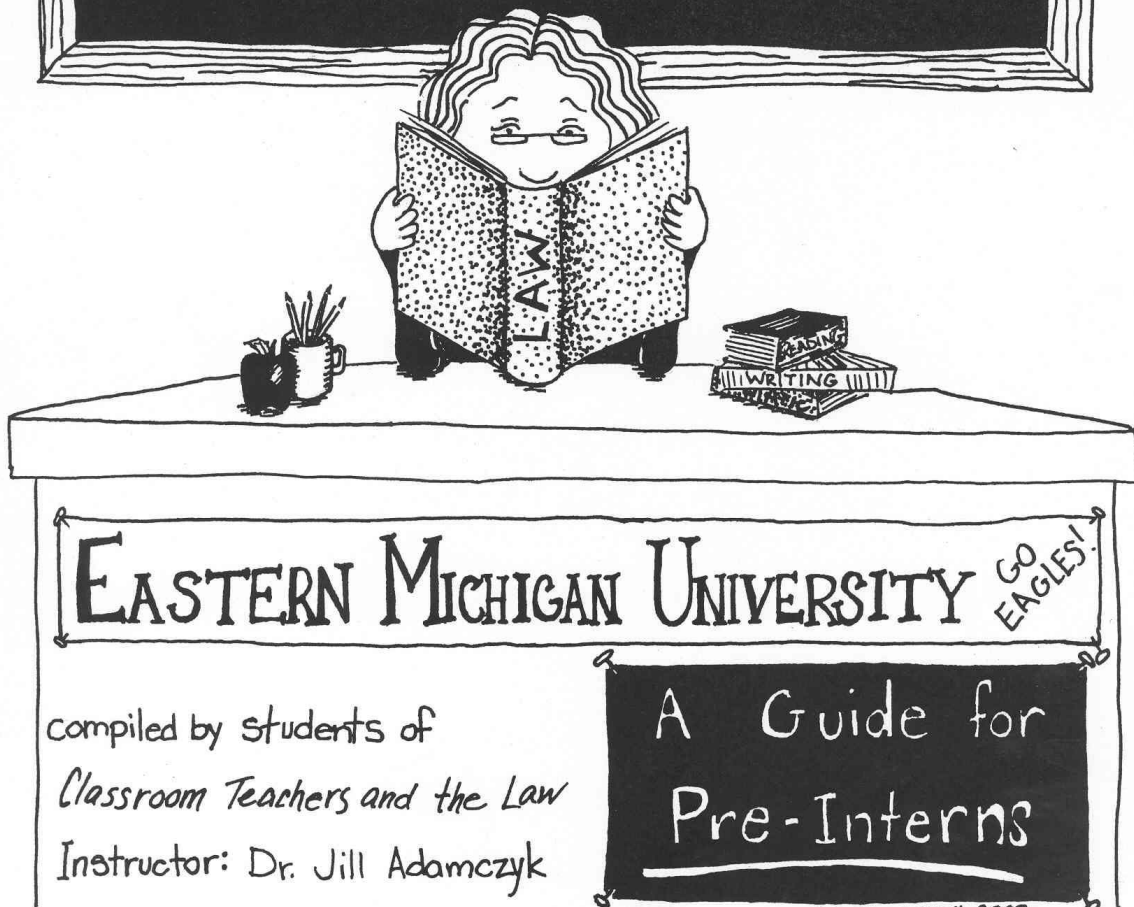


# The ABC's of School Law



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## **Preface**

The law as it pertains to teachers is discussed from time to time over the course of most undergraduate programs. However, among the many methods, management, and statistics classes, law seems to be less emphasized. As experienced educators, we found that a guide such as this would be extremely useful to new teachers.

As we were constructing this document, we tried to keep in mind what new teachers need to know about the law as it relates to them as professional educators. What follows is intended to be a quick-reference guide to many of the major issues that arise over the course of a teaching career. Certainly, this is not a comprehensive guide of all laws and guidelines that could affect a teaching professional; however, we've tried to compile information that reflects the common concerns of teachers. In addition to this document, teachers should always consult the guidelines outlined in the contract for their particular district since guidelines and expectations vary in each district.

## **Confidentiality and Student Records**

### **Student Records**

Student Educational Records consist of those records which are directly related to a student and are maintained by the school district or by a party acting for the school district.

Student Educational Records include, but are not limited to:

- Family information, such as name and address of the student, parent or guardian, emergency contact information, date of birth, number of siblings, date and place of birth
- Personal information, such as student identification number, social security number, picture, or list of personal characteristics that would make it easy to identify the student
- Grades, test scores, courses taken, academic specializations and activities, and official letters about a student's status in school
- Special education records
- Disciplinary records established and maintained by school officials
- Medical and health records that the school collects and maintains
- Documentation of schools attended, courses taken, attendance, awards conferred, and degrees earned
- Videotape recordings of individuals or groups of students

Some information about students is not considered an education record and is not subject to access or disclosure rules under The Family Educational Rights and Privacy Act (FERPA):

- Handwritten notes by teachers, supervisors, school counselors, and administrators which may be used by substitute teachers or other replacement personnel
- Records created by law enforcement that are maintained separately from education records
- Employment records about a student who is employed by a school, education agency, or institution
- Information obtained about individuals after they are no longer students

Note: The Family Educational Rights and Privacy Act was established by the federal government in 1974 to protect the privacy of students. Although the law has been amended several times in recent years, the essentials have remained the unchanged. In general, students have the right to review their educational records, to correct mistakes in records, and to be protected from unauthorized release of information.

## **Responsibilities of Schools and Agencies**

- FERPA regulations require school districts and institutions to give annual notification to parents and eligible students of their rights to review education records and to request corrections of records they perceive to be inaccurate.
- FERPA, additionally, grants parents certain rights of access to their children's education records and restricts disclosure of information.
- A school district is required to maintain accurate records
- Education records should avoid labeling students.
- School personnel should refrain from aimless talk, especially involving third parties.
- School records need to be maintained in a safe and secure location
- Personnel should refrain from releasing information over the telephone, unless the identity of the other person has been fully established
- A school district does have the right to charge a reasonable fee for the duplicating of records, but may not charge a fee to search or to retrieve education records.
- School districts also must give public notice of any student directory information that is being released publicly and parents have the right to decline participation. Such notification of directory information can occur through a school newsletter, student handbook, or some other publication that parents reasonably can be expected to receive. An example of such a directory would be a sports roster where students' height, weight and grade level would be available to the public.

### **Tips to Teachers**

- Do not display exam scores or grades in association with any names, ID numbers, social security numbers or any other personal identifies. Some instructors create an individual code that is kept private for each student—that technique is acceptable under FERPA. If you use this method, post the records in a random order.
- When records are shared with others (for example an advisor's folder) the records are covered by FERPA guidelines.
- Faculty is advised to keep records of test scores and paper grades for at least one year. This will allow students adequate time to ask for a review of alleged clerical errors, etc.

## **Parent Rights**

Under the Family Educational Rights and Privacy Act of 1974, parents have certain rights when it comes to their child's student records. FERPA, also known as the Buckley Amendment, has four parts to it. Part one states that school district receiving federal funding must comply with this amendment or they could lose their funding. Part two

requires school districts to get parental permission before changing a program in which a child is in that may change their values or behavior. The third part deals with school district that do not restrict the unauthorized release of student information. The fourth part protects student information during federal surveys.

FERPA covers all educational records of a student. The only information not protected by FERPA are personal logs, treatment information, and directory information.

School records cannot be released without parental consent. For special education students, written permission must be obtained. Schools must also notify parents when information about a student is being released.

Parents have a right to:

- Review their child's records, unless there is a legal reason why they cannot, for instance a court injunction prohibiting it
- Ask to change information that they think is incorrect in their child's record that may be inaccurate, misleading, or violates the child's rights
- Permit disclosure of certain personal information allowable by FERPA
- File a complaint with the United States Department of Education if the district does not comply with the requests to change disputed information
- Only look at their own child's records
- Be notified of their rights in a way they understand, for example in a different language other than English
- Ask for an explanation of information contained in their student's records
- Appeal a decision made if the school district rules that all the information is correct in the student's file and the parents still dispute the information
- Have an unresolved disagreement permanently attached to their child's record

The school district may release information in a directory. The following information may be released:

- Name
- Address
- Telephone Number
- Date and place of birth
- Participation in extracurricular activities
- Dates of Attendance
- Diploma and awards achieved

Parents have a right to limit what information is released, and their objections to having the information released needs to be noted. Except for directory information, all student information must be kept confidential, unless the parent signs a release form.

## **Student Rights**

Students may have some of the same rights their parents do if they have reached the age of 18 or are enrolled in an educational institution the student may:

- Inspect confidential records and can challenge the information included in the confidential file
- Choose to have a copy of the record if they wish
- Utilize the due process procedure when disputing information contained in the file

FERPA states that records can be disclosed without parental consent to the following:

- Another school, school system or post secondary education in this case, parents must be notified
- The United States Department of Information or to others authorized with the United States Comptroller General
- Organizations who are collecting information for educational agencies who give tests or student assistance programs
- Institutions to which students apply to ask for types of financial aid
- Accrediting Organizations
- Juvenile justice system agencies for the purpose of complying with subpoenas
- An emergency situation in which the student's welfare is at issue.



## **Contracts**

### **Role of the Union**

The Union, often called the Association or the Bargaining Unit, is the organization that collectively deals with the school board and administration on issues of teacher rights and responsibilities, employee benefits and working conditions. While the hierarchy may change according to geography or district, the Union's function is pretty much the same everywhere. Public school teachers are employed contractually; the contract that serves the district is the result of collective negotiations between the board and the Union.

Typically, many sections make up the contract, from class size to compensation for extra duties. Included in every contract is a procedure that must be followed in the event of a disagreement between employer and employee known as the grievance process. Officers of the local Union generally include building representatives for each school, as well as a core group of officers elected and appointed from the Bargaining Unit.

**The sections of your contract that may have an immediate impact on your teaching career include:**

### **Working Conditions**

Working conditions can be split into different sections of the contract. They typically include teacher assignment, schedules, extra duty assignment, teaching loads or class size, teaching supplies, transfers, vacancies and promotions. Transfers can be voluntary or involuntary; involuntary transfers are based on seniority and certification. New teachers are typically the first to be moved when a transfer is necessary, so you should be familiar with this language before staffing assignments are made in the spring.

### **Teaching Hours and Class Load**

Your contract outlines class size limits. You should be familiar with the contract as it pertains to overload language. Some contracts provide stipends or additional staffing for overloaded classrooms.

### **Rights and Responsibilities**

The rights and responsibilities of teachers are clearly defined in your contract. Teacher rights include the right to assemble, the right to maintain Union membership, the right to Union representation, and the right of the Unit to negotiate a contract in collective bargaining. Hours on duty, expectations of lesson plans and classroom management, and a district calendar may each have a section in the contract. Teacher responsibilities also include the adherence to applicable federal and state statutes, including but not limited to the reporting of child abuse to the appropriate authorities and the restraint from using corporal punishment in Michigan classrooms. Base salary and pay for additional years

service or education are often the first part of the contract examined by a concerned teacher. Coaching or advising extracurricular groups and events may provide extra pay. Consult your contract for the assignment procedure and to determine the stipends awarded for extra duties.

### **Evaluations of Probationary Teachers**

This section of your contract is extremely important. Probationary teachers can legally be terminated without a given reason, however due process is granted through the 14<sup>th</sup> Amendment to the U.S. Constitution. If a reason is not given for termination, you have the right to request the reason. In the event the reason is not provided or due process is not followed, it may be wise to seek advice from your building union representative. Districts vary greatly in the frequency of evaluations for teachers; most will evaluate probationary teachers a minimum of three times per year. The State of Michigan Tenure Act outlines the tenure process, specifically the Individualized Development Plan. The IDP is a joint annual contract between the probationary teacher and his/her administrator. A tenured mentor teacher must be provided to probationary staff.

### **Layoff and Recall Procedures**

This language is important to know as a new teacher. Your district publishes a seniority list early in the school year. It is important for you to check your hire date and make sure it is accurate. Layoff and Recall procedures are tied to certification areas as well as dates of hire.

### **Professional Conferences and Development**

Your contract may detail the procedures for seeking Professional Development opportunities. Membership in professional organizations or conference attendance may be reimbursed by your school district. In addition, subscriptions to professional journals may be a benefit.

# Who's Who in the Teacher Union

If a problem/situation arises, you should bring it to the attention of your **building representative**.

Unit President

\_\_\_\_\_ found in \_\_\_\_\_  
(building)

Building Representatives

\_\_\_\_\_ found in \_\_\_\_\_

\_\_\_\_\_ found in \_\_\_\_\_

\_\_\_\_\_ found in \_\_\_\_\_

Grievance Chair

\_\_\_\_\_ found in \_\_\_\_\_

Regional MEA Office

\_\_\_\_\_ phone number \_\_\_\_\_

## Discipline

### Corporal Punishment

- Corporal Punishment is not legal in the State of Michigan.
- No teacher, in any public school district is permitted to physically punish any student.

### Truancy

In Michigan, truancy is defined as, “a child who is repeatedly absent from school without valid excuse.” Truancy can also include patterns of absences or tardies, such as every Monday.

Under Michigan Law, parents can be charged with a misdemeanor if their child is truant. This is punishable by up to 90 days in jail, a fine of up to \$100, probation for up to two years, or some combination of jail, fine and/or probation.

The teacher’s role in Truancy:

- Teachers must keep accurate attendance records. If a student and/or parent is to be charged with truancy, your records may be needed in court.
- If absences of a student show signs of becoming excessive, notify your building principal.
- The building administrators will investigate the situation and then perform necessary actions. This often includes letters being sent home to the parents, parent meetings, and eventually, legal action.
- Continue to notify your building administrators of any attendance concerns.

### Due Process for Students

#### Amendment XIV

**Section 1.** All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

When a student is suspended or expelled from school his/ her property rights have been violated. Due process consists of two types: procedural and substantive. Each type of due process must be enforced if a student is to be suspended or expelled from school.

In **procedural due process**, a procedure must be followed when a person is stripped of life, liberty, or property. A person’s constitutional rights will be infringed upon if this procedure is not followed.

In **substantive due process**, a state must have a valid agenda when stripping a person of life, liberty, or property and the agenda must be determined in a sound manner.

In order for administrators to ensure each student's constitutional rights have not been infringed upon, he/she would be wise to provide due process following this minimum procedure listed below:

1. Students must be given proper notification of wrongdoing.
2. Students must be given notification of hearing before said date.
3. Student has the right to have a lawyer present during each step of the process.
4. The hearing must be in front of an impartial group.
5. Student has the right to have witnesses for his/her side.
6. Student has the right to be aware of all evidence and confront any witnesses for the opposing side.
7. Student has the right to tell his/her side of the story during the hearing.
8. Student has the right to a copy of the hearing for any appeals.

## **Freedom of Expression**

### **FIRST AMENDMENT RIGHTS IN THE SCHOOLS**

- Dress code
- Free speech

The courts ruled in the *Tinker v. Des Moines Independent Community School District* (1969) that "School officials do not possess absolute authority over their students." The First Amendment gives U.S. citizens freedom of speech and does not exclude this right to students in a public school. However, the material presented by the students may NOT cause a disruption to the learning process.

Most school districts define in their code of conduct what the students may not wear. For example, students may not wear clothing containing vulgar or obscene language. The courts state students may wear most apparel unless it disrupts the learning process. Unless otherwise stated in the code of conduct this ruling goes along with hair color and body piercing.

The First Amendment also protects school newspapers. If the paper is strictly student run, the administration may not censor the newspaper as long as it does not disrupt the learning process. The student run paper may not contain vulgar language and may not contain "indecent" material. The administration may state the place and time the paper is distributed. However, with the official school newspaper, the administration may censor the content of the paper. The school may also censor other school publications such as a yearbook.

In each case where a student over steps the boundaries of freedom of speech, the student must be provided minimal due process, before any punitive action is taken. Note: To

justify the prohibition of a particular form of expression, there must be something more than a mere desire to avoid the discomfort and unpleasantness associated with an unpopular view. Such action is arbitrary, capricious, and indefensible.

### **Search and Seizure**

The Fourth Amendment protects from illegal search and seizure. It reads: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” In the world of education, these rights are weighed against the safety of all students.

### **Reasonable Suspicion**

School officials need only reasonable suspicion to initiate a search. This requires significantly less to go on than the police, who need probable cause in order to conduct a search. Information from a student, a tip, or any other genuine, reasonable suspicion is enough for a teacher or administrator to begin a search. Documentation is a must to avoid messy situations. The reason and time of the search, along with witnesses and parental contact, should be documented.

### **Locker Searches**

Lockers are the property of schools. Though they are eligible for searches, avoid possible problems by taking these precautions:

1. Make students aware the lockers are school property. When possible, have both students and parents sign a contract that explains that locker searches are possible without notice.
2. Always have at least one other witness with you. When applicable, have the student present also.

### **Book Bag Searches**

As a general rule, the more intrusive the search, the more “reasonable” the suspicion must be. A book bag search has been seen as being more intrusive by the courts, this warrants stronger suspicion.

### **Automobile Searches**

If the car is on school property, only *probable suspicion* is needed. If the car is off school property, *probable cause* is needed. To ensure proper procedure is taken, make sure there is documentation and that witnesses are present.

### **Personal Searches**

Personal Searches are seen as the most intrusive searches and should be used only in serious circumstances. If a search is warranted, make sure there is a same sex witness present. A strip search is within this realm, but is only to be used in the most extreme

circumstances. Whenever possible, items to ensure student dignity are maintained such as robes or alternative clothing should be provided.

### **Law Enforcement Agents, Canines, and Metal Detectors**

Police must have warrants to initiate searches. That is, they always need probable cause, not probable suspicion. Documentation and parental contact become more important here.

Court decisions on canine use have been split up to this time.

Metal detectors have not been challenged in the Supreme Court.

## **Discrimination**

Discrimination is treatment or consideration based on class or category rather than individual merits.

### **According to the Civil Rights Act of 1964, Title VII:**

It is unlawful to refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms and conditions, or privileges of employment, because of such individuals race, color, religion, sex, or national origin.

### **Important Points Concerning Teachers:**

- You cannot be hired or fired based on your gender, religion, or race.
- You have a right to file a grievance if you have probable cause that you have been discriminated against.
- You need to be objective. Be sure not to promote personal beliefs (i.e. religious or political) in the classroom.
- You have the right to observe religious holidays that pertain to you and are not on your school's calendar without losing pay.
- You cannot treat students differently if they are pregnant or married.
- You, as a teacher, cannot be discriminated against if you are pregnant and/or unwed.
- If you feel you have been discriminated against, document it immediately and contact your building union representative.
- Use heterogeneous grouping as much as possible in the classroom, with the exception of physical education.

## **Harassment**

Harassment is to irritate or torment persistently. It is a form of discrimination that involves unwelcome or unwanted behavior. There are many forms of harassment such as physical, psychological, or sexual. A form of harassment often seen in schools is bullying, which is repeated physical or verbal harassment.

### **Important Points to Consider:**

- Schools and teachers are responsible for creating an environment free of harassment.
- Take seriously any verbal, sexual, or physical harassment that is reported to you because you are liable if you knew of the harassing behavior and did not take reasonable steps to respond.
- Let your students know what harassment is and that it will not be tolerated in the classroom.
- Know your schools harassment policy and follow it without exception.



- Document and file any instances of harassment that you witness and/or report.
- Establish rapport with your students so that they feel comfortable reporting harassing incidents to you.
- Keep all information confidential.
- Be aware of inappropriate touching, such as:
  - Child sitting on lap
  - Neck rubbing and massaging
- Keep the age of the student in mind when showing affection.

## **Liability**

- Join an educational association that provides liability coverage.
- Do not violate students' constitutional rights.
- Three duties of an educator: 1) instruct 2) supervise 3) provide for student safety
- You may be liable if injury occurs because of your actions or neglect.
- You may be liable in deliberate acts, acts involving negligence, or injury to reputation.
- You are expected to investigate threats.
- Be aware of student work that contains violence and any hidden meaning.
- Create an atmosphere in which students feel comfortable in reporting any possible problem.
- Prevent foreseeable injury.
- Gangs are a foreseeable threat.
- Do not make statements about teachers or students that may be considered libelous or slanderous.
- Do not use discipline that is considered embarrassing.
- Keep personal student information confidential.
- Teach your curriculum.
- Parental consent forms may not protect you in a liability suit.

## **Student Safety**

- Establish and enforce rules of safety in school activities. Rules should be written, posted, and taught.
- Be aware of school, district, and state rules and regulations as they pertain to student safety. Warn students of any hazard in a room or in an instructional activity.
- Enforce safety rules when violations are observed.
- Provide a higher standard of supervision when students are younger, disabled, and/or in a potentially dangerous activity. Instruction must be provided to ensure safety in relation to the children's maturity, competence, and skill.
- Learn first aid, teachers may be liable for negligence if they do not get or give prompt, appropriate medical assistance when necessary.
- If there are any physical hazards in your room: sharp edges, loose boards, insecure window frames, etc., warn everyone and report the hazards to administration and maintenance staff.
- Be where you are assigned to be. Your responsibility for safety is the same for extracurricular activities you are monitoring as it is for classes.
- Plan field trips with great care and provide for adequate supervision. Warn children of dangers on the trip and instruct them in rules of conduct and safety.
- Do not send students on errands off school grounds. If they are injured or if they injure someone else, you may be held liable.

## Religion in the Public Schools

### First Amendment and Clauses

The First Amendment to the Constitution provides us with religious freedom. It reads: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof....” Though this deals only with religion on the federal level, the fourteenth amendment made the First Amendment applicable to state law. The two clauses that came from this are:

1. Establishment Clause: Prohibits the state from aiding or showing preference to one religion over another
2. Free Exercise Clause: Prohibits a state from interfering with individual religious freedom

The **lemon test** is used to decide constitutionally of religious aspects in schools. The criteria for an event to occur is:

1. It must have a secular purpose.
2. It must neither advance nor inhibit religion.
3. It must not create excessive entanglement.

### School Sponsored Bible Reading and Prayer

Bible reading can only take place in school if it is of a secular nature. Reading of the Bible as a historical, literary, ethical, or philosophical document is allowed.

School sponsored prayer is more of a gray area. Though prayer in school has been banned by *Wallace v. Jaffree*, it still goes on. Freedom of speech makes this an issue the courts have tried to stay away from.

Prayer at school events cannot be school sponsored in any way. Even if the prayer is voluntary, the Jager case found that this influenced kids toward certain religions.

Having said this, prayer has been allowed at school events if it is student created and student led.

### Use of Facilities for Religious Events and Meetings

The 1984 Equal Access Act provided religious student groups or clubs equal access to school facilities. As a result, school cannot deny access to student-initiated groups on the basis of religious, political, or philosophical content.

### Holidays

No student or teacher can be denied an excused day of school for a religious holiday.

Holiday programs are permitted as long as they remain secular and for entertainment value.

A teacher may also explain holidays and religions if a secular purpose is served.

### **Aid to Parochial Schools**

The Child Benefit Theory made it possible for public aid to be utilized in a private school setting. However, it is only permitted if the funds go directly to benefit the student, not the school at large.

### **Religious Symbols**

A teacher should refrain from displaying religious symbols. Even if pictures or symbols are relevant to a lesson, it has been ruled that a religious atmosphere is created which violates the Establishment Clause. For this same reason, teachers are encouraged not to wear religious garb.

### **Distribution of Religious Materials**

Students are the only individuals who may hand out religious materials. Furthermore, they may only hand out information if it does not disrupt the normal school day.

# **Student Accommodations**

## **Special Education**

### **Special Education Referrals**

- The majority of special education referrals originate from teachers.
- Teachers need to report “suspected” disabilities to appropriate special education staff or administrators. Many schools have child study teams that address referrals.
- Teachers are usually required to document parent contacts and pre-referral interventions prior to referral.

### **Multidisciplinary Evaluation Team (MET)**

- Once a referral is signed the staff has 30 school days to complete the evaluation. A multidisciplinary evaluation team is formed with a minimum number of members prescribed by law.
- While some teacher input is included in all MET reports, only those involving a suspected learning disability require the teacher to be a MET member. The teacher and a person qualified to conduct diagnostic evaluations need to agree on the recommendation of the MET as to eligibility for special education services.

### **Individualized Education Planning Team (IEPT)**

- The IEPT can accept or reject, by consensus, the MET recommendations
- At least one of the child’s regular education teachers is required to attend the IEP.
- Teachers, along with other IEPT members, are expected to plan ways to assist the student’s involvement and progress in the general education curriculum.

### **Behavioral Intervention Plan (BIP)**

- If a child’s behavior impedes his/her learning or the learning of others, school staff can be required to formulate a BIP based on a Functional Behavioral Analyses (FBA).
- The FBA's and BIP's may or may not be part of an IEP.
- Staff that create these behavioral plans generally include a classroom teacher, a member(s) of the school’s special education team and an administrator if possible.

### **Responsibilities Toward Your Special Education Students**

- Read all evaluations, IEP's, and BIP's regarding your special education students.
- Teachers need to consider recommendations and to fulfill all responsibilities assigned to them in the IEP's and BIP's.

## **Section 504 of the Rehabilitation Act of 1973**

### **What is Section 504?**

Section 504 prohibits public schools, or any organization that receives federal funding, from discriminating against people with a disability (Student Advocacy Center of Michigan). It is widely known as “The First Federal Civil Rights Law Protecting the Rights of Persons with Disabilities” (Cause: Changing Lives-One Child At A Time).

### **Who qualifies under Section 504?**

All children who qualify for Special Education services are automatically protected by Section 504 (Student Advocacy Center of Michigan). However, a student does not have to qualify as a special education student to be protected by Section 504. Section 504 is broader than special education laws because it recognizes more problems (Student Advocacy Center of Michigan). Students with a physical or mental impairment that limits one or more major activities with a record of the impairment qualify for Section 504 (Student Advocacy Center of Michigan), such as:

- Communicable diseases
- Temporary handicapping conditions
- Attention Deficit Disorder
- Behavior disorders
- Chronic asthma and severe allergies
- Physical handicaps
- Diabetes
- Migraine headaches
- Physiological disorders
- Cosmetic disfigurement
- Anatomical loss
- Mental or psychological disorders

### **Section 504 Strategies**

A Section 504 plan may be put together for students who qualify. A 504 plan is similar to an IEP and can be legally used like an IEP. A 504 plan may include the following accommodations:

- Scheduled breaks
- Extra tutoring sessions
- Mentoring relationships with a teacher and/or coach
- Daily assignment monitoring
- Extended time for assignments and tests

## **English as a Second Language (ESL)**

According to the Michigan Department of Education, it is the responsibility of local school districts to provide appropriate instructional services to ensure that these students (ESL) are not deprived of the opportunity to learn content matter while they also gain proficiency in English. There are two options:

- **Bilingual Education** – a means (usually including the student’s native language) that make it possible for linguistically diverse children to achieve the same challenging academic standards required of all children enrolled in America’s schools. Bilingual Education is a vehicle to ensure equal access to education and to promote educational excellence for limited English proficient learners.
- **ESL Programs** – a program of techniques, methodology and special curriculum designed to teach LEP (Limited English Proficient) students English skills, which may include listening, speaking, reading, writing, study skills, content vocabulary, and cultural orientation. ESL instruction is usually in English with little use of native language.

The *Lau v. Nicholas* class action suit brought by parents of non-English proficient Chinese students against the San Francisco Unified School District. In 1974, the Supreme Court ruled that identical education does not constitute equal education under the Civil Rights Act of 1964.

Guidance on selecting and implementing appropriate programs is found in the Office for Civil Rights document, Programs for English Language Learners, which available on the Michigan Department of Education website at: [www.state.mi.us/mde/off/fs/index.htm](http://www.state.mi.us/mde/off/fs/index.htm).

The requirements for ESL students fall under Title VI of the Civil Rights Act of 1964. The booklet, The Provision of an Equal Education Opportunity to Limited English Proficient Students can be obtained from the Michigan Department of Education, Office of Field Services.

## **Teacher Certification**

### **Levels of Certification**

Elementary certificate- authorizes an individual to teach:

All subjects K-5

All subject K-8 in a self-contained classroom

Subject areas (endorsed major or minor areas) Grades 6-8

Secondary certificate- authorizes an individual to teach:

Subject areas (major or minor areas) Grades 7-12

*Note: A person employed in an elementary or secondary school with instructional responsibilities shall hold a valid certificate for the position to which he is assigned.*

### **Types of Certificates**

Provisional certificate is the first teaching certificate issued. It is valid for up to six years, during which the teacher is expected to gain experience as a practicing professional and to access additional professional development through advanced study.

Professional Education certificate is the advanced teaching certificate. It is valid for up to five years. Requirements for obtaining the Professional Education certificate are as follows:

1. Completion of three years successful teaching experience within the validity of the provisional certificate.
2. Completion of an 18-semester hour planned program at a regionally accredited teacher preparation institution after the issuance of the Provisional certificate or an approved Masters or higher degree at any time.
3. Completion of six semester hours of reading methodology for the elementary level certificate; three for the secondary level certificate.

### **Renewal of Certification**

#### **Provisional Certificate Renewal**

First renewal- You must have completed a minimum of 10 semester hours of an 18-hour planned program since the issuance of the Michigan teaching certificate or hold an approved master's degree or higher degree from a Michigan accredited teacher preparation institution. You must apply directly through the certification office at the institution where the credit was completed as long as it was in the state of Michigan.



*You must call 517-373-3310 and leave your name and address to have a renewal application sent to you if you complete the credits at a regionally accredited institution outside the state of Michigan. The cost is \$75.00.*

Second renewal- you must have completed the 18-hour planned program at a Michigan accredited teacher preparation institution, or an approved master's or higher degree at any time. You must apply directly through the certification office at the Michigan institution where the credit was earned. *If the credit was earned at a regionally accredited teacher preparation institution outside the state of Michigan, you need to call 517-373-3310 and leave your name and address to have a renewal application sent to you.*

Third renewal- A third renewal is only available to those individuals who have met all academic requirements for the Professional Education certificate, but have not met the requirement of three years of teaching experience. *You must call 517-373-3310 to apply.*

### **Professional Education Certificate Renewal**

The renewal of a Professional Education certificate requires the completion of 6 semester hours of credit (which can be completed at a 2-year or 4-year institution) or 18 State Board-Continuing Education Units or a combination of the two. Three SB-CEU's equals one semester hour of credit. The required credit hours or SB-CEU's must be completed after the issuance of the Professional Education certificate and within five years of the date of application for renewal. *Note: Credit may be taken at any regionally accredited teacher preparation institution, or at any approved higher education institution in Michigan as listed in the Michigan Higher Education Directory, including community colleges and private institutions.*

### **Evaluation**

- The District must observe your classroom *at least* twice during each year of your probationary period with each observation being at least 60 days apart.
- Each probationary teacher must be provided an annual year-end performance evaluation that evaluates your progress in meeting the IDP goals.
- If no written evaluation occurs, the assumption is that you had a satisfactory school year and it is counted toward your probation period.
- Probationary teacher evaluations should be completed by December 15 for the first evaluation period and on, or before April 15 for the year-end evaluation.

## Tenure

Tenure is a form of job security for teachers who have successfully completed a probationary period. Its purpose is to protect competent teachers from arbitrary non-renewal of contract reasons unrelated to the educational process, such as personal beliefs and personality conflicts with administrators, school board members, etc. Tenure is *not* a lifetime contract of employment. Tenure laws were designed to regulate the dismissal of incompetent teachers.

### Protection offered by tenure:

Tenure entitles a teacher to due process when he or she is threatened with dismissal or non-renewal of contract for failing to maintain a clearly defined educational standard.

### Rights of a probationary teacher:

A probationary teacher can have their contract terminated somewhat easily in most instances, provided a school board has not violated any constitutional rights or equal employment opportunity laws. The school board must also make sure they do not violate their contract with the local teachers union.

### Layoffs due to declining enrollment or financial cutbacks:

School boards have some leeway when deciding to layoff a tenured teacher due to financial emergencies. The exact amount of leeway is usually determined in the contract with the teachers' union. In general, if a tenured teacher and a probationary teacher have the same certification, the tenured teacher will usually be given preference. However, if there is a surplus of teachers in one discipline and a scarcity in another, a tenured faculty member in the one might be let go while a probationary faculty member in the other may be retained.

<b>Michigan Tenure Law</b>	
Number of years before a probationary teacher is granted tenure:	4
Number of years before a teacher is granted tenure after previously receiving tenure in another public school district in Michigan:	2
Forum for due process hearing:	Administrative Law Judge
Forum for appealing initial hearing:	State Tenure Commission
Appropriate Reasons for Termination or Dismissal:	Just and Reasonable Cause – As outlined in the teacher dismissal section

Check the website [www.mea.org](http://www.mea.org) for more information on Tenure and links to Michigan government websites.

## Teacher Dismissal

### Probationary Teachers

*Due process does not apply to probationary teachers since the educator is working on a year-to-year contract. When the one-year contract has expired both the teacher and the district have met their obligations to each other.*

*Non-Tenured Teachers:*

- Should not expect automatic employment beyond the contract year
- Do not have to be provided with reasons for non-renewal of contract
- Do not have a right to due process
- Do not have a right to a hearing

*\*These situations are void if a liberty right exists. This means that due process must be provided if destructive statements are made that could possibly limit the teacher's opportunity for future teaching jobs.*

*\*If a district decides to dismiss a probationary teacher during the contract year then the above conditions are void.*

### Tenured Teachers

Unlike probationary teachers, tenured teachers have a property right to hold their employment position and therefore are granted due process, have a right to a hearing and are to be provided with reasons for their dismissal. These conditions guarantee that procedural and substantive due process requirements are met. Dismissing incompetent tenured teachers is difficult but it is not impossible!

*While laws vary from state to state, grounds for dismissal of tenured teachers normally include:*

- **Incompetency:** Refers to inefficiency, lack of skill, inadequate knowledge of subject matter, inability or unwillingness to teach the curriculum, failure to work effectively with colleagues and parents, failure to maintain discipline, mismanagement of the classroom, and attitudinal deficiencies. (These charges must be documented. Often professional improvement plans are created.)
- **Insubordination:** Viewed as the deliberate failure or inability to obey a reasonable and valid administrative directive. (Again, there must be documented evidence.)
- **Immorality:** This typically involves behavior that violates the ethics of the community. It is often seen as behavior that sets a poor example for students and violates moral integrity.

**Homosexuality:** The courts have not been consistent in their rulings.

**Unprofessional Conduct:** Again, giving the changing standards of society and tolerance of various lifestyles, the courts will face greater difficulty ruling on cases involving personal conduct.

**Criminal Conduct:** Charges of criminal activity committed by public school teachers will normally result in dismissal. Depending on the severity of the act, revoking the teaching certificate may also occur.

**Sexual Advances Towards Students:** Courts consistently uphold school districts when they deliver evidence that a teacher has engaged in unlawful sexual involvement with students.

- **Financial Exigency:** This occurs when the district faces a reduction in its budget, which results in eliminating employment positions.
- **Good and Just Cause:** This is designed to provide the district with more leeway in dismissing teachers for causes not found in the above reasons. The same due process requirements must still be met.

A Board of Education may dismiss a teacher for nearly any reason, as long as it is valid and meets due process requirements.

## **Teacher Ethics**

### **Teacher Code of Ethics** (adapted from the British Columbia Teachers' Federation)

- The teacher speaks and acts toward students with respect and dignity and deal judiciously with them, always mindful of their right and sensibilities.
- The teacher respects the confidential nature of information concerning students and may give it only to authorized persons or agencies directly concerned with their welfare.
- The teacher recognizes that a privileged relationship with students exists and refrains from exploiting that relationship for material, ideology, or other advantage.
- The teacher is willing to review with colleagues, students, and their parents/guardians the quality of service rendered by the teacher and the practices employed in discharging professional duties.
- The teacher directs any criticism of the teaching performance and related work of a colleague to that colleague in private, after informing that colleague in writing of the intent to do so. The teacher may also direct in confidence the criticism to appropriate individuals who are able to offer advice and assistance.
- The teacher acknowledges the authority and responsibilities of the local district and fulfills obligations arising from membership in his/her professional union.
- The teacher adheres to the provisions of the collective agreement.
- The teacher acts in a manner not prejudicial to job actions of other collective strategies of his/her professional union.

### **Computer and Copyright Cautions**

- Use only approved/accepted computer programs and do not load programs on more than one computer unless you have permission from the program creator.
- Use common sense regarding copying documents found in other publications. Most legally reproducible documents will have the word "reproducible" on the document. If this word does not exist, seek advice from an administrator.

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