

EDUC-1120: Introduction to Teaching: Study Guide for Chapter 8

Directions: this study guide is to help you focus on important concepts in Chapter 8, "School Law: Ethical and Legal Influences on Teaching" in your Kauchak and Eggen (2017) text. If you do not have access to internet, make sure to answer the questions on this handout that are distinguished by **large bold type**. This will help you complete the online quiz quickly when you are able to access our SJC Canvas site. **The Possible Discussion Questions are optional. You can choose to answer one or two of these questions for your Chapter 8 online discussion (in place of other questions recommended on Canvas).**

Objectives for Study

After reading this chapter, you should be able to

- “explain the differences between legal and ethical influences on the teaching profession” (Kauchak & Eggen, 2017, p. 249).
- Use your knowledge of laws and ethics to make informed decisions about appropriate, professional behavior, action, and decisions
- Understand how “the legal system at the federal, state, and local levels influences education” (Kauchak & Eggen, 2017, p. 249).
- Explain how the law influences many aspects of the teaching profession, such as “teacher employment, academic freedom, liability, and teacher’s personal lives” (Kauchak & Eggen, 2017, p. 249).
- Describe the legal rights of students—especially in regard to free speech and expression of religious beliefs.
- Formulate a basic understanding of the legal rights of educators

How to Meet these Objectives

- Read about laws and ethics related to educational professions in Chapter 8.
- Test your ideas by deciding what you would do when faced with ethical dilemmas.

What are ethical and legal responsibilities?

There are laws that provide clear answers to some problems teachers may face. For example, on page 251 in your textbook *Introduction to Teaching*, this question, under the “Teaching and You” section is posed: if you see a fight between students on the playground, are you (hypothetically a middle-school teacher) legally obligated to do something about it?

Yes, you are! The law states that if you are a teacher, you are responsible “for the safety of the children in your classroom as well as your school, so you can’t ignore the fight” (Kauchak & Eggen, 2017, p. 251).

However, your ethical responsibility is not as clear. You know you have to do *something, but what?*

The following are questions an ethical dilemma might raise:

What should you do in this situation? Should you physically intervene to break up the fight? What is your school's policy? What does the situation call for? How much responsibility do you have—can you simply report it to the office, and then walk away?

What would you do?

What did you have to consider when deciding what to do based on your knowledge of the law and of ethics?

What is the challenge for new teachers?

New teachers cannot rely on their experience, but they should have a strong understanding of both the law and ethics of the profession. **Keep a copy of your district's Code of Ethics handy, and make sure you understand the laws that influence teachers' responsibilities.** You should also understand the following:

- **Legal responsibilities:** these are mandated by law. These are non-negotiable, such as the question of whether the middle school teacher should respond when encountering a playground fight (Remember the answer is yes—he/she must do something; they legally cannot ignore the situation.)
- **Ethical responsibilities pertain to what a teacher *should* do—what is the right thing to do for the situation?**

Legal responsibilities also pertain to school rules and district policies. For example, in the case of the middle school teacher—he or she must follow the procedures set up by his or her school or district. A teacher can be disciplined for physically intervening in a fight, unless he or she has had proper training for this type of intervention. The ethical part of the same situation would be deciding how much a teacher can do, without violating laws or protocols, in order to protect all of the students involved.

Here are some other examples of ethical decisions a teacher might make:

- When presenting a controversial issue in a lesson, an ethical teacher would take the time to figure out how to present both sides fairly.
- When writing a letter of recommendation for a student, the teacher would fairly and honestly describe the student's strengths.
- If a teacher gives an award or a gift to a student, she or he must not show favoritism, but make sure each student had an equal chance to receive the gift or award.
- If a student is stranded after a field trip, instead of offering to drive the student home (an act that violates policy in most school districts), the teacher would notify administration, and then follow school protocol for the situation.

Here are some characteristics of ethical behavior

- Honesty
- Professionalism
- Respect for Justice
- Respect for Others

- Positive Collaboration (with both students and colleagues)

Limitation of Laws

As described on pages 251 and 252 of your text, laws pertaining to educators are usually written in a general way that leaves room for interpretation. This is why a teacher should know his/her school and district policies, as well as have a well-developed understanding of professional ethics.

Two situations presented on page 250—one involving a science teacher, and one involving a math department chair—will help you think about situations you might encounter as a teacher.

Read about Mr. Taylor and Ms. Brown on page 250. Choose one case and explain what you would do in that situation:

Now, read the suggestions made in your text (in the section “Ethical Dimensions of Teaching on page 252). Do you agree or disagree with these suggestions, and why?

Next, read “Teaching and You” on page 253. How much academic freedom (or the freedom to choose what you will teach) will you have as a teacher? Think about the following questions as you consider basic ethical dilemmas faced by teachers:

- Will you be able to decide what books and articles your students can read?
- Can you publicly criticize the administrators and school boards you work for?
- If you are the newspaper advisor for your school, how much freedom will your students have in deciding what to print?

How to Answer the Difficult Questions

As we know, an ethical dilemma occurs because there is more than one way to look at an issue of morality (or more than one perspective on what is right and what is wrong). Ethical codes provide guidelines or philosophies, but not clear answers to every question. For example, the First Amendment to the Constitution guarantees freedom of speech, but if the exercise of free speech interferes with classroom learning, where do we draw the line? Your text brings up another interesting dilemma: “...you can’t have your students read *Playboy* magazine, but how

about *Catcher in the Rye*, a classic coming-of-age novel with explicit sexual references" (Kauchak & Eggen, 2017, p. 253). So,

How would a teacher justify teaching a novel like *Catcher in the Rye*? [Hint: read suggestions made for teaching controversial topics on page 260]

In the section on "Academic Freedom" (Kauchak & Eggen, 2017, pp. 259-260), we learn that teachers do have rights when making decisions about what to teach. Certainly, under the First Amendment to the Constitution, they have "freedom of speech". However, as professionals they are still required to make *ethical* decisions. In addition, they must make sure they are following the policies and procedures of their schools if they want to keep their jobs. When deciding on whether or not to teach controversial topics, teachers must consider the following:

- School or district approved frameworks for curriculum—is the topic an appropriate fit for standards that must be taught?
- What is your goal for teaching this topic? Is your goal clear and aligned with curriculum standards? Is your goal focused on the learning needs of your students?
- What is age-appropriate for the students you are teaching (for example, a teacher would not teach *Catcher in the Rye* to third-graders, even if their Lexile Level was high enough to comprehend the novel).
- How relevant is the material to your course?
- What is the quality or general acceptance of the material you plan to teach? (Or, how academically sound is it?)
- Are there any school or district policies in direct opposition to what you plan to teach?

[You may also want to review the list provided by Kauchak and Eggen (2017) on page 259.]

Before teaching controversial subjects or using controversial methods, a teacher should also consider the following:

"...you should try to decide whether they fall within the scope of your assigned curriculum. In essence, you need to determine if you are speaking as a public employee educating students (which is legal) or a private citizen advocating a particular position (which is questionable)" (Kauchak & Eggen, 2017, p. 260). Your text also reiterates having clear goals in mind which you can defend.

Possible Discussion Question: Think about this: some say that freedom comes with more responsibility. If you want to exercise your academic freedom by teaching controversial topics, you must also accept the responsibilities and consequences that come with such freedoms. Do you agree or disagree? Why?

Students Rights and Constitutional Amendments

The **Fourth Amendment to the Constitution** states that "unreasonable searches and seizures" are illegal, but what is *unreasonable*? (Kauchak & Eggen, 2017, p. 253)

Can school administrators search students' backpacks or lockers? Under what circumstances would these searches be in violation of the Fourth Amendment? What justification could be used by school officials to argue that they are not in violation of students' Constitutional Rights?

On page 253 of your text, the [Fourteenth Amendment](#) is also quoted: “nor shall any State deprive any person of life, liberty, or property without due process of law.’ What does ‘due process’ mean in the context of schools?”

Possible Discussion Question: What do you think? Does “due process” apply to school officials in the same way that it does other people in authority outside of educational institutions in the U.S.? Or, do schools have special circumstances that require different interpretations? [You will also want to read about “Search and Seizure” on page 278, and due process for students on page 282.]

In the section “Students Right in Speech and Dress” on pages 272-274 in your text, an interesting case is presented. In two different Pennsylvania schools, students created mock MySpace pages for their principals. These pages presented “outrageous and unbelievable statements” (Kauchak & Eggen, 2017, p. 274) about the principals. Yet, in separate rulings, judges from two different courts, disagreed:

“One U.S. Circuit Court of Appeals concluded the schools could legally suspend the students because these actions were necessary to preserve the principal’s authority and avert future disruptions. The other court reached just the opposite conclusion, protecting the student’s First Amendment rights and asserting that the school had failed to prove that the posting had significantly disrupted the teaching environment” (p. 274).

Possible Discussion Question: What do you think? Would you agree with the court ruling that send the students could be suspended for creating the mock MySpace pages, or do you agree with ruling that said the students’ free speech rights should be honored because the teaching environment was not disrupted? Why do you think so?

Ethics, Laws, and Choices

By now you understand that teachers often have to make tough choices, and they are legally and ethically responsible for the choices they make. Administrators also have to make difficult decisions. One key to making the best (most ethical) choice is to consider the following:

- Safety first! The main legal responsibility of educators is to protect students. Their safety must be prioritized. In fact, one legal obligation of teachers is defined by the principle of **in loco parentis**, which means “in place of the parents,” or that teachers must show the same care and judgment of parents when it comes to ensuring student safety. (Kauchak & Eggen, 2017, p. 261)
- Focus on protecting students’ rights and when possible, prevent situations that might violate students’ freedoms. I taught at a conservative high school in 2003, the year the U.S. launched the war with Iraq. A small group of students decided to protest against President G.W. Bush’s decision during lunch-time with signs and chants. The assistant principal, a person whom I knew personally supported the war, stood as a guard during the entire time. He did this because there were students at the school who would definitely try to attack or beat up the protestors. His own opinions didn’t matter because he was fulfilling his professional duty.
- One person’s right to free speech cannot harm another person’s basic human rights. For example a student will not be allowed to exercise freedom of speech if his/her speech is meant to harass or bully other students (see the paragraph on “antigay bullying” at the bottom of page 273 for clarification).
- Remember when you are at work, you are required to act in a professional capacity. As a teacher, your focus must be on the students—their safety, their educational needs, and their basic human rights.

Other Legal and Ethical Issues

Freedom of Religion—is guaranteed by our Constitution; the original framers established a separation between church and state in the [First Amendment](#). Moreover, the **establishment clause** prohibits the establishment of a national religion, while the **free exercise clause** “prohibits the government from interfering with individuals’ rights to hold religious beliefs and freely practice religion” (Kauchak & Eggen, 2017, p.p. 268-269). The result? You guessed it—legal controversy.

Read about issues regarding religion and schools (pages 266 –270), and then answer the following questions:

Is it legal to pray in school?

Can teachers teach about religion?

Copyright Laws and Fair Use Guidelines: teachers use a variety of sources to teach their lessons. Because of the nature of their work, they are allowed to use copyright sources—but with limitations. Therefore, teachers must be aware of the rules pertaining to **Fair-use guidelines** (Kauchak & Eggen, 2017, p. 260).

What are some restrictions imposed on copyrighted materials by Fair Use Guidelines? [See pages 260 and 261.]

FERPA Laws—teachers must be aware of privacy issues related to student records. Read about the Family Educational Rights and Privacy Act (FERPA) on page 280.

Child Abuse—as we have read in previous chapters, teachers are mandated reporters and are protected by law if they report child abuse if they have reasonable cause (see pages 262-263) Educational Rights of Immigrant Children—read about controversies surrounding this topic on pages 271 and 272

Can children of immigrants be denied an education if they are not citizens of the U.S.?

Sexual Harrassment is against the law. Read about cases involving students on pages 277.

What is a district's responsibility in a Sexual Harassment Case involving students?

Licensure—you will have to work hard to attain your professional license to be an educator. The state issuing your license will require various methods to prove that you are both competent in your subject and “morally fit to work with young people” (Kauchak & Eggen, 2017, p. 255).

What does it mean to be “morally fit to work with young people”?

A teaching contract is a legacy binding agreement between a teacher and a school board. When the teacher signs this contract, he/she must fulfill its requirements (Kauchak & Eggen, 2017, p. 256). Controversial issues may come up in regard to a teacher’s responsibilities.

Can a principal require a history teacher to take charge of the debate club? [Hint: read about Brenda Taylor on pages 254-255.]

Federal, State, and District Laws and Policies

Although in most cases the district laws or policies take precedence, there are state and federal (or national) laws that apply to educators.

Ammendments to the Constitution and some federal laws comprise the federal (or national) influence; this is why Henry Ipsinger’s case (see page 254) went to the federal courts when he sued his district for violating his free speech.

State governments issue teacher licenses and have many requirements for acquiring and then maintaining licensure. Districts create the legal contracts teachers sign when they agree to employment.

[Fill in the blanks]—Overlapping Legal Systems: when conflict occurs between different legal systems—such as federal, state, and district—does the legal system attempt to resolve the issue at a _____ level before sending it to a _____ level. [See page 254.]. Therefore, does the principal have a right to insist that Ms. Taylor take on the duty of debate club sponsor?

Collective Bargaining and Grievances—teachers should also be aware that unions can negotiate with districts over perceived violations of employees' rights (collective bargaining) and a teacher can file a grievance if he or she feels his or her rights are being violated (Kauchak & Eggen, 2017, p. 256).

Tenure is “a safeguard that provides job security by preventing teacher dismissal without due cause” (Kauchak & Eggen, 2017, p. 257). According to Kauchak and Eggen (2017), due process includes the following:

- A written description of the charges and adequate time to prepare a rebuttal to them.
- Access to evidence and names of witnesses
- A hearing conducted before an impartial decision maker
- The right to representation by legal counsel and the opportunity to introduce evidence and cross-examine witnesses
- A school board decision based on the findings of the hearings
- A written record of the decision and the right to appeal an adverse decision. (p. 257)

Traditionally, it has been much easier to dismiss new teachers—teachers who don't have tenure—for the following reasons: incompetence, overstaffing, and ethical violations. New teachers are also usually the first to be “riffling”. However, this is changing in some states due to teacher shortages.

Reduction in Force or “riffling” is a legal way that districts can dismiss teachers if there is a decline in student enrollment or school funds (Kauchak & Eggen, 2017, p. 259).

Notoriety as a reason to dismiss teachers has become controversial (see pages 263-265); however, it is still employed. While a teacher cannot be fired for wearing “dresses no more than two inches above the ankle”, as was the case in the 1800s (Kauchak & Eggen, 2017, p. 263), they can lose their jobs for engaging in immoral behavior, even in their private lives. “**Notoriety describes the extent to which a teacher's behavior becomes known and is controversial**” (Kauchak & Eggen, 2017, p. 264). Read about the court cases involved in issues of notoriety. While some cases have been upheld in court, others have not. For example, **if a teacher is diagnosed with AIDS (acquired immune deficiency syndrome) or HIV (human immunodeficiency virus), can a school district legally dismiss him or her? [Hint: read about the Supreme Court Case—School Board of Nassau County, Florida v. Arline, 1987 on page 265.]**

Possible Discussion Question: review legal cases about students and teachers who have been diagnosed with AIDS or HIV. Were the court rulings similar or different? In what ways? What is your opinion—do you agree or disagree with the rulings, and why? [See pages 265 and 283]

Possible Discussion Question: On page 264 you can read about court cases ruling on notoriety (involving a teacher's behavior outside of school). Which rulings do you agree and disagree with? Why do you agree or disagree with these rulings?

More on Freedom of Speech

A school district cannot fire a teacher for his or her controversial political views. However, educators can be disciplined—even fired—if their views interfere with their professional duties. **What is an example from your chapter of an educator losing his or her job because of the way he or she expressed political views?**

Possible Discussion Question: Some states have tried to enact laws restricting electronic communication between teachers and students. [See page 265.] What do you think? Is this necessary? Why or why not?

You can also create your own discussion question based on a court case in this chapter. Please contact your teacher to make sure your question meets requirements.

Reference

Kauchak, D., & Eggen, P. (2017). *Introduction to teaching: Becoming a professional*. (6th ed.).

Upper Saddle River, NJ: Pearson.