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Education Law

Cases and Materials

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To Nancy and Marie for their strong faith and continuous patience

and

In memory of Albert Stefkovich, father, friend, anchor, and inspiration

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- Griffin v. County School Board of Prince Edward County, 377 U.S. 218 (1959)*****

- Griggs v. Duke Power Co., 401 U.S. 424 (1971), 403, 408, 432
- Grigs v. Virginia, 297 S.E. 2d 799 (Va. 1982)*****
- Grove v. Mead School District No. 354, 753 F.2d 1528 (1985)*****
- Grutter v. Bollinger, 539 U.S. 306 (2003), 957
- Hall v. Tawney, 621 F.2d 607 (4th Cir. 1980)*****
- Harrah Indep. Sch. Dist. v. Martin, 440 U.S. 194, 197 (1979), 474
- Harris v. Robinson and Independent School District of Leflore County, 273 F.3d 927 (10th Cir. 2001)*****
- Hart v. Paint Valley Local School Dist., not reported in F.Supp. 2d (S.D. Ohio 2002)*****
- Hawkins v. Sarasota County Sch. Bd., 322 F.3d 1279 (11th Cir. 2003), 105
- Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988), 566
- Hearn v. Board of Public Education, 191 F.3d 1329 (11th Cir. 1998)*****
- Hedges ex rel C.D. v. Mosco, 33 F.Supp. 2d 369 (D. N.J. 1999)*****
- Hill v. Safford Unified Sch. Dist., 952 P.2d 754 (Ariz. Ct. App. 1997), 160
- Hilow v. Rome City School District, 1994 WL 328625 (N.D.N.Y.), 325
- Hobson v. Hanson, 327 F.Supp. 844 (D.D.C. 1971)*****
- Hoffman v. Bd. of Educ., 400 N.E.2d 317 (N.Y. 1979), 106
- Honig v. Doe, 484 U.S. 305 (1988), 692
- Hopwood v. University of Texas, 236 F.3d 256 (5th Cir. 2000)*****
- Horton v. Goose Creek Ind. Sch. Dist., 690 F.2d 470 (5th Cir. 1982), 238
- Hunter v. Bd. of Educ., 439 A.2d 582 (Md. 1982), 106
- In re Alexander B., 270 Cal Rptr. 342 (Cal. Ct. App. 1990), 157
- In re David J.M., 587 N.W. 2d 458 (Wis. Ct. App. 1998)*****
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- In the Interest of T.H., 681 So. 2d 110 (Miss. 1996), 495
- Indiana ex rel. Anderson v. Brand, 303 U.S. 95 (1938)*****
- Ingraham v. Wright, 430 U.S. 651 (1977), 284, 299, 586–587, 594, 615
- Ingraham v. Wright, 469 U.S. 325 (1985)*****
- International Brotherhood of Teamsters v. U.S., 431 U.S. 324, 335 (1977), 323
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- Iverson v. Wall Bd. Of Educ., 522 N.W.2d 188, 193 (S.D. 1994), 452
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- Jenkins ex rel Hall v. Talladega City Bd. of Edu., 95 F.3d 1036 (11th Cir. 1996)*****
- Johnson v. Newburgh Enlarged Sch. Dist., 239 F.3d 246 (2nd Cir. 2001)*****
- Johnson v. Sch. Dist. of Millard, 573 N.W. 2d 875 (Wis. Ct. App. 1999)*****
- Jones v. Brevard County Sch.Bd., 470 So.2d 760 (Fla. Dist. Ct. App. 1985), 661
- Jones v. Clear Creek Independent School Dist., 977 F.2d 963 (5th Cir. 1992)*****
- Jones v. Latexo Ind. Sch. Dist., 499 F.Supp. 223 (E.D. Tex. 1980), 238

- Jove v. Hunterdon Central Regional High Sch. Bd. of Education, 826 A.2d 624 (N.J. 2003)*****
- Joy v. Penn-Harris-Madison School Corp., 212 F.3d 1052 (7th Cir. 2000)*****
- Kadmas v. Dickinson Pub. Schs., 108 S. Ct. 2481, 2487 (1988), 476
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- Keyes v. School District No. 1, 413 U.S. 189 (1973), 919
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- Keystone Bituminous Coal Ass'n v. DeBenedictis, 480 U.S. 470, 504 n.31 (1987), 472
- Kibbe v. Elida School District, 996 P.2d 419 (N.M. 2000)*****
- Killian v. Franklin Regional Sch. Dist., 136 F. Supp. 2d 446, (W.D. Pa. 2001)*****
- King by King v. Northeast Security and Metropolitan Sch. Dist. of Wasington Twp., 790 N.E. 2d 474 (Ind. 2003)*****
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- Knox County Educ. Ass'n v. Knox County Bd. of Educ., 158 F. 3d 361 (6th Cir. 1998), 227
- Kurtz v. Unified School Dist., 65 Fed. Approx. 257 (10th Cir. 2003)*****
- Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist., 508 U.S. 384 (1993)*****
- Larkin v. Grendel's Den, 459 U.S. 116 (1982), 730
- LaVine v. Blaine Sch. Dist., 257 F.3d 981 (9th Cir. 2001).*****
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- Lee v. Weisman, 505 U.S. 577 (1992), 312, 849, 888–889, 899, 901, 909
- Leebaert v. Harrington, 193 F. Supp 2d 491 (D. Conn. 2002), 723
- Leger v. Stockton Unified Sch. Dist., 249 Cal. Rptr. 688 (Cal. App. 3d Dist. 1988), 159
- Lemon v. Kurtzman, 403 U.S. 602 (1971), 751, 763, 798, 818, 834, 845, 851, 874, 883, 896, 898, 907–909
- Linke ex rel Linke v. Northwestern Sch. Corp., 763 N.E. 2d 972 (Ind. 2002), 235
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- London v. Directors of Dewitt Pub. Schs., 194 F.3d 873 (8th Cir. 1999), 100
- Loughran v. Flanders, 470 F. Supp. 110 (D. Conn. 1979), 106
- Lovell v. Poway Unified Sch. Dist., 1996 WL 140805 (9th Cir. (Cal.)).*****
- Lynch v. Donnelly, 465 U.S. 668 (1984), 826, 832, 852, 877, 889, 899, 901, 909
- Lyons v. Penn Hills School District, 723 A.2d 1073 (Pa. Commw. 1999)., 164
- Main v. Claremont Uniform Sch. Dist., 326 P.2d 573 (1958)*****
- Mapp v. Ohio, 367 U.S. 643 (1961), 505, 585, 607
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- Martinez v. School District No. 60, 852 P. 2d 1275, 1279 (Colo. App. 1992)*****
- Massie v. Henry, 455 F.2d 779 (4th Cir. 1972), 503
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- Metzer v. Osbeck, 841 F.2d 518 (3d Cir. 1988)*****
- Meyer v. Nebraska, 262 U.S. 390 (1923), 19, 32, 40, 45, 432, 545, 551, 575, 579, 626, 750, 848
- Miller ex rel Miller v. Wilkes, 172 F.3d 574 (8th Cir. 1999), 233
- Milliken v. Bradley, 418 U.S. 717 (1974), 187, 923, 944, 950
- Mills v. Board of Education of the District of Columbia, 348 F.Supp. 866 (D.C. 1972), 671, 683
- Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938), 914, 1012
- Missouri v. Jenkins, 515 U.S. 70 (1995), 924
- Mitchell v. Helms, 530 U.S. 793 (2000)*****
- Monell v. Pape, 365 U.S. 167 (1961)*****
- Moore v. Willis Indep. Sch. Dist., 233 F.3d 871 (5th Cir. 2000)*****
- Moore v. Willis, 233 F.3d 871 (5th Cir. 2000)*****
- Moule v. Paradise Valley Unified Sch. Dist., 863 F.Supp. 1098 (D. Ariz. 1994), 231
- Mozert v. Hawkins County Board of Educ., 827 F.2d 1058 (6th Cir. 1987), 21
- Mozert v. Hawkins County Board of Education, 827 F. 2d 1053, 1061 (6th Cir. 1987)*****
- Mt. Healthy City School District v. Doyle, 429 U.S. 274 (1977), 357
- National Treasury Employee's Union v. Von Raab, 489 U.S. 656 (1989)*****
- Naylor v. Cardinal Local Sch. Dist. Bd. of Educ., 630 N.E.2d 725, 727 (Ohio, 453
- Neal v. Fulton Co. Bd. of Educ., 229 F.3d 1069 (11th Cir. 2000), 100
- Neal v. Fulton County Bd. of Educ., 229 F.3d 1069 (11th Cir. 2000)*****
- New Jersey v. T.L.O., 469 U.S. 325 (1985), 110, 121, 169, 218, 231, 247, 263, 283, 296, 303, 311, 388, 558, 569, 582
- New Life Baptist Church Academy v. Town of East Longmeadow, 885 F. 2d 940 (1st Cir. 1989)*****
- Norris by Norris v. Board of Education, 797 F.Supp. 1452 (S.D. Ind. 1992), 106
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- Odenheim ex rel Odenheim v. Carlstadt-East Rutherford Regional School District, 510 A.2d 709 (N.J. Super. Ct. Ch. Div. 1985)*****
- Oliver ex rel Hines v. McClung, 919 F.Supp. 1206 (N.D. Ind. 1995), 98
- P.B. v. Koch, 96 F.3d 1298 (9th Cir. 1996), 100
- P.H. v. Sch. Dist. of Kansas City, 265 F.3d 653 (8th Cir. 2001), 104
- Paople v. Pruitt, 662 N.E. 2d 540 (Ill. App. Ct. 1996)*****
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- Patchogue-Medford Congree of Teachers v. Bd. Of Educ. Of Patchogue-Medford Union Free Sch. Dist., 119 A.D. 2d 35 (N.Y. App. Div. 1986)*****
- Patman v. State, 537 S.E. 2d 118 (Ga. App. 2000)*****
- Peck v. Upshur County Bd. of Educ., 155 F.3d 274 (4th Cir. 1998)*****
- Pegram v. Nelson, 469 F.Supp. 1134 (M.D.N.C. 1979)*****
- Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of

- Pennsylvania, 334 F.Supp. 1257 (E.D. Pa. 1971)*****
- People ex. Re. Gibson v. Peller, 181 N.E. 2d 376 (Ill. App. 1962)*****
- People v. Bennett, 501 N.W. 2d 106 (Mich. 1993), 722
- People v. Duke, 580 N.Y.S. 2d 850 (N.Y. City Crim. Ct. 1992)*****
- People v. Kuhn, 306 N.E. 2d 777 (N.Y. App. Ct. 1973), 156
- Peter W. v. San Francisco Unified Sch. Dist., 60 Cal. App. 3d 814 (1976), 106
- Phillip Leon M. v. Greenbrier County Bd. Of Educ., 484 S.E.2d 909 (W.Va. 1996)*****
- Phillipe v. City of New York Board of Education, 678 N.Y.S. 2d 662 (N.Y. App. Div. 1998)*****
- Picha v. Wieglos, 410 F.Supp. 1214 (N.D. Ill. 1976), 237
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- Plessy v. Ferguson, 163 U.S. 537 (1896), 914, 949, 1023
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- Richardson v. Lamar County Board of Education, 729 F. Supp. 806 (M.D. Ala. 1989), aff'd 935 F.2d 1240 (11th Cir. 1991)*****
- Richmond v. J.A. Croson Co., 488 U.S. 469 (1989), 970, 982, 985, 995, 1006, 1009, 1028
- Robinson v. Jacksonville, 760 F.Supp. 1486 (M.D. Fla. 1991)., 330
- Rose v. Nashua Bd. of Ed., 679 F.2d 279 (1st Cir. 1982)*****
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- Sante Fe Ind. Sch. Dist. v. Doe, 503 U.S. 290 (2000)*****
- Sch. Dist. of Abington Township v. Schempp, 373 U.S. 203 (1963), 736
- Schaill v. Tippecanoe County School Corp., 864 F.2d 1309 (7th Cir. 1988), 231
- School Bd. v. Arline, 480 U.S. 273, 289 n.19 (1987), 480
- Seal v. Morgan, 229 F.3d 567 (6th Cir. 2000), 164
- Sellers v. School Board of Manassas, Virginia, 960 F.Supp. 1006 (E.D. Va. 1997)., 106
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- Simmons v. Hooks, 843 F. Supp 1296 (E.D. Ark. 1994)*****
- Simmons v. Vancouver School Dist., 704 P.2d 648 (Wash. Ct. App. 1985), 516
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- Sipuel v. Board of Regents, 332 U.S. 631 (1948), 915, 949
- Skinner v. Railway Labor Executives Association, 489 U.S. 602 (1989), 225, 263
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- Smith v. bd. of Sch. Comm'rs of Mobile County, 827 F. 2d 684 (11th Cir. 1987)*****
- Smith v. Board of Sch. Commissioners of Mobile County, 827 F. 2d 684 (11th Cir. 1987)*****
- Smith v. Little Rock School District, 582 F. Supp. 159 (E.D. Ark. 1984)*****
- Smith v. McGlothlin, 119 F.3d 786 (9th Cir. 1997)*****
- Smith v. Sch. City of Hobart, 811 F. Supp. 391 (N.D. Ind. 1993), 495
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- Snow v State, 475 NE. 2d 454 (N.Y. 1984), 106
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- State of Florida v. N.G. B., 806 So.2d 567 (Fla. App. 2 Dist. 2002)*****
- State v. Adams, not reported in N.E. 2d (Ohio App. 5 Dist., 2002)*****
- State v. Angelia D.B., 564 N.W. 2d 682 (Wis. 1997), 158
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- Steirer v. Bethlehem Area School District, 987 F.2d 989 (3d Cir. 1993)*****
- Stevens v. Chesteen, 301 A.D. 2d 640 (N.Y. App. Div. 2003)*****
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- Thompson ex rel Lee v. Carthage Sch. Dist. 87 F.3d 979 (8th Cir. 1996), 157
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- Upshur v. Love, 474 F. Supp. 332 (N.D. Cal. 1979)*****
- Vernonia Sch. District v. Acton, 515 U.S. 646 (1995)*****
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- Wallace v. Jaffree, 472 U.S. 38 (1985), 826, 834, 846, 852, 862, 865, 868–69, 877, 889, 899, 901, 909
- Wallace v. Know County Bd. of Educ., 1 F.3d 1243 (6th Cir. 1993)*****
- Wards Cove Packing Co. v. Atonio, 490 U.S. 642, 647 (1989)*****
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- Wood v. Strickland, 428 U.S. 308 (2002)*****
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- Wynne v. Tufts University School of Medicine, 976 F.2d 791; 1992 U.S. App. LEXIS 24933 (1992), cert. denied (1993)*****
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Preface

After teaching education law courses both in colleges of education and in colleges of law, we have used virtually all of the textbooks currently available for graduate level courses. For decades, we have noted the strengths and weaknesses of these books vowing to write the “perfect” text/case book on the topic of education law. While this book is not perfect, it does represent an attempt to capitalize on the wisdom of all those who have gone before us.

Without question a loud thanks must go to those writers who helped pioneer the field by their texts. It is to those fine contributors that we owe gratitude for making it possible to bring education law to the level of a teachable subject which is now included in nearly all graduate colleges of education. Improving upon the current offerings was no easy task. However, we think the task was accomplished. This book is different in several ways. One third of the book presents new developing topics in education law not seen in many other casebooks. A section in Chapter 4 covers the area of School Safety. Chapter 5 deals with Drug and Alcohol Abuse by Teachers and Students. Chapter 7 involves the law of Teacher Evaluation, and Chapter 9 provides some understanding of the major issues in Special Education. In addition to entirely new topics being introduced and thoroughly treated. Four other topics were presented as sections of chapters. A section of chapter 2 deals with the Controversial Curriculum.

The biggest problem with education law texts and case books today is the use of “edited” cases. Through no fault of the authors, the necessity for economy of space has required truncating case law. Unfortunately, when information is edited out of a case it is difficult to know the extent to which students’ understanding is affected. As professors of education law we have most often found ourselves having to “fill in the blanks” with facts left out of the version presented in the text. Typically, the facts presented in the case are the first to be excised. The dissenting opinions are rarely printed and footnotes from the case are all most never seen. Fortunately, Carolina Academic Press has been most courageous in helping to remedy this problem. This book is the first to present nearly full, unedited cases. Therefore, it strikes a better balance between explanatory material and case law presentation. The resulting casebook we believe comes closer to a law school type casebook as opposed to a college text. We think the level of understanding with which graduate students are capable has been underestimated by many instructors in education. Graduate students as well as law students will be able to benefit from the full case approach that has been taken here.

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