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Administrator Knowledge of The First Amendment Rights in A School and How to Improve Legal Literacy Through Self-Efficacy

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ABSTRACT

ADMINISTRATOR KNOWLEDGE OF THE FIRST AMENDMENT RIGHTS IN A SCHOOL AND HOW TO IMPROVE LEGAL LITERACY THROUGH SELF-EFFICACY

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Northern Illinois University, 2022
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This dissertation examines the legal literacy of school administrators and the lack of mandated training regarding school law, specific to the First Amendment. With continual changes in education school administrators can function as the change agent for schools through the lens of self-efficacy. This dissertation is organized into three bodies of work. **Paper 1** is a review of literature specific to legal literacy and First Amendment rights in schools. Additional research on self-efficacy theory is presented as a potential catalyst for increasing legal literacy in schools. **Paper 2** documents data based on survey questions specific to legal literacy within the First Amendment for school administrators. This data was then synthesized to determine specific areas of training necessary to operate within the law in a school setting. Additionally, confidence levels based on the knowledge from Illinois administrators was also reviewed. **Paper 3** utilizes information gathered from Papers 1 and 2 to develop a professional development framework to improve legal literacy in schools.

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ADMINISTRATOR KNOWLEDGE OF THE FIRST AMENDMENT RIGHTS IN A SCHOOL
AND HOW TO IMPROVE LEGAL LITERACY THROUGH SELF-EFFICACY

BY

STUART E. WRZESINSKI

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A DISSERTATION SUBMITTED TO THE GRADUATE SCHOOL
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE
DOCTOR OF EDUCATION

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FOUNDATIONS

Doctoral Director:
Kelly Summers

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DEDICATION

I would like to dedicate this dissertation to all school administrators who work tirelessly to run a successful school. It is often in our craft that we rarely hear the praise that we deserve to wear a multitude of hats in our work. It is expected that we have a keen sense of legal literacy, yet we often do not have the knowledge needed to make confident and correct decisions on a daily basis.

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INTRODUCTION

Legal literacy has grown from a discussion at conferences to an issue leading to increased litigation involving school districts. Knowledge is power, yet the necessity to mandate professional development in the area of school law is still absent in the educational profession. Administrators are considered the leaders of the school building and should be equipped to execute legally appropriate decisions. Yet the lack of knowledge or mandated training outside of initial formal coursework has caused a trickle effect on school districts around continuous legislative battles (Gilbert, 2017).

Within the last fifty years, research has been gathered on a lack of training for pre-service teachers and legal literacy, yet most research focuses specifically on the legal literacy of teachers (Decker, 2014; Summers et al., 2020). There is a need for research specific to the legal literacy of administrators as they are the individuals who are responsible for the decisions made in a school that could impact student and teacher constitutional rights. A school administrator must be able to make decisions that are legally appropriate, yet in order to do so they must be equipped with the necessary knowledge. As new mandates are signed into effect each year, the necessity for continuous professional development is in high need in an attempt to reduce the risk for litigation.

Structure of the Dissertation

This body of work discusses the idea of legal literacy and the role it plays for a school administrator as it relates to the success of a school district, specific to the First Amendment.

This dissertation will then examine self-efficacy theory as the framework to base professional development for administrators to promote legal literacy in schools. This dissertation is guided by the following questions:

1. *What is the historical relevance of legal literacy in education and how has it been measured through past studies?* This question will be answered through a review of literature in paper 1.
2. *What are Illinois school administrator's knowledge levels of First Amendment issues that may arise in public schools?* This research question will be answered in paper 2.
3. *What are Illinois school administrators' confidence levels in their knowledge of First Amendment issues?* This research question will be answered in paper 2.
4. *Do knowledge and confidence levels match?* This research question will be answered in paper 2.
5. *How can Bandura's self-efficacy theory be used to provide relevant, impactful professional development for school administrators in the area of legal literacy, and specifically First Amendment issues?* This question is answered in paper 1 and will be applied in paper 3.

This dissertation paper is split into three papers. Each paper explores different areas related to the topic of legal literacy for administrators.

Paper 1 is a literature review on the concept of legal literacy and how it has been previously studied and measured. This literature review identifies the lack of research specific to school administrators despite their role as leaders of the buildings. This paper also reviews

notable First Amendment cases that have had an impact on the operation of a school in addition to more recent cases that are less prominent yet impactful. This paper then concludes by reviewing the impact that self-efficacy can have on the actions of an individual and how self-efficacy theory may be a useful framework for guiding professional development for administrators in the area of legal literacy.

Paper 2 reviews the concept of legal literacy followed by reviewing and analyzing a survey created for school administrators in Illinois. This survey consists of questions asking administrators for background information on their time in education and in an administrative position. The survey then asks multiple questions based on the First Amendment rights within a school to determine the extent of their knowledge in this area. Confidence levels in the answers given are also analyzed in addition to two questions that allow for participants to expand on the answer they gave. The data collected will help determine any correlations based on different data sets in addition to administrator legal literacy specific to the First Amendment compared to their perceived understanding.

Paper 3 consists of a proposed professional development specific to school administrators based on the data received from the participant survey. This professional development will be specific to the First Amendment and the phrase ‘substantial disruption’.

Purpose, Significance, and Intended Audience

The purpose of this dissertation is to begin by reviewing the legal literacy needs within a school, specific to First Amendment rights. As the law continues to change with court decisions and mandates, school personnel must stay updated on the new legislature and how any changes

affect current practices within a school. The lack of mandated professional development has a domino effect on litigation battles or schools not operating under the compliance of the law. Change is needed to provide mandated training for school administrators in school law. My goal for this work is to raise awareness of the deficiencies within First Amendment knowledge and propose changes in the professional development process of administrators to remedy these deficiencies.

The intended audience for this paper falls into multiple categories according to need. Any school personnel would benefit from learning about legal literacy and previous research in the field, however this dissertation is primarily written for school administrators who are responsible for the operation of the school building along with the training of staff members. As legal literacy reaches every individual in a school, administrators must be proactive in guiding and mentoring staff members on addressing difficult situations while also following the law. Lastly, this work is also relevant for any state agency or university when considering the need for mandated professional development. The educational field continues to be filled with litigation based on a lack of legal literacy. This issue must be corrected to allow for schools to find success while adhering to the law.

Positionality of Researcher

I have worked in the field of education for seventeen years. My first five years in the field I was a classroom teacher and I have worked for the last twelve years as a building administrator. I am currently in my eighth year working as a school principal in a middle school in the suburbs

of Chicago with an enrollment of just over seven hundred students in addition to seventy staff members.

When I first began as a teacher, I would revel at some of the issues that building administrators would work on regarding students. This intrigue was one of the reasons I pursued school administration. In my time as a school administrator, I have had numerous conversations with parents with threats of litigation based on potential outcomes of student discipline. Occasionally district lawyers have been involved based on the incident. I have also observed changes to processes based on court rulings that mandated changes in schools.

My responsibility is to ensure the building is operating at a high level and within the law. The law continues to change, and new mandates are forced on schools to stay within compliance of school code. However, the only mandated school law training I have had was through my graduate level coursework. I feel that school administrators should be mandated to participate in law training periodically in their career to keep them updated on changes in law. In spite of the fact that administrators are not required to participate in training to build legal literacy, it is the responsibility of the building leader to train and mentor staff members on mandated changes.

PART 1

Introduction

The day-in and day-out work of administrators is riddled with words such as mandates, rights, initiatives, standards, and litigation. As educational research continues to bring about concerns from past practices, changes or reviews from current work remain ongoing. One area that draws much attention in school districts is when practices violate the law. In a fast-paced school setting, the actions of adults must be decisive, but the ramifications can be severe if laws are not followed. It is with this notion that the phrase legal literacy has been gaining attention in the field of educational research.

Legal literacy has become a growing point of discussion amongst educational researchers over the last fifty years. Attaining legal literacy can lead to avoiding costly litigation, making responsible disciplinary decisions, and upholding the rights of the students and teachers within a school building. On the contrary, schools with staff members that are not legally literate have the potential to shift attention away from supporting student achievement and school improvement goals and force their attention toward amending errors in operational practices that violate rights in the building. In spite of this, expectations for required school law coursework remain inconsistent for school personnel (Gajda, 2008). Legal literacy research continually illustrates that teachers and administrators have not experienced the necessary training to be considered legally literate in the school setting (Schimmel & Militello, 2011).

School law continues to change each year, yet there is no mandate that administrators must continue to educate themselves to improve their legal literacy. This lack of mandated training magnifies the potential for litigation within school districts (Gilbert, 2017). In totality, paper 1 sets out to answer question *1: What is the historical relevance of legal literacy in education and how has it been measured through past studies?* In addition, other areas covered in paper 1 include a debrief of specific First Amendment cases linked toward freedom of speech and freedom of religion. This paper will then begin to examine how the phrase ‘substantial disruption’ has been interpreted from school but also how the legal system has applied this phrase into case law. Finally, Bandura’s self-efficacy theory will be discussed as a method of providing relevant and impactful professional development for school administrators in terms of attaining knowledge and developing skillset.

History of Legal Literacy

From a historical perspective, the concept of legal literacy has been a matter of discussion amongst educational researchers for the last fifty years. One of the first known references to legal literacy came about when two lawyers who were also college professors spoke at the Annual Convention of the National Organization for Legal Problems in Education in 1974. Louis Fischer and David Schimmel spoke about the need to increase pre-service and in-service teacher awareness on specific court cases that offered a snapshot into the legal understanding necessary to navigate in a school. Fischer and Schimmel saw the need for the knowledge base of teachers to grow as the legal demands from within the classroom continued to grow as well. Their proposal was to modify two pre-service classes and embed specific court cases within those classes that have impacted student rights within schools. Both noted that their recommendation

was not the only way to increase the legal literacy within a school, but each stressed the importance of this work (Fischer & Schimmel, 1974).

Following this speech, an impactful law case came to a resolution in 1975. In the case of *Wood vs. Strickland* the courts determined that school personnel are not immune to being held personally liable for violating the constitutional rights of students. The courts ruled that school personnel shall not be allowed to fearlessly make decisions without affording students their rights and acting in good-faith measures (Alexander & Alexander, 2019). This case initiated the possibility that school personnel could face personal judgment in a court system for the violation of student rights. The decision ultimately magnified the need for legally literate staff members to ensure not only the rights of students but the livelihood and integrity of educators.

From the early notion of legal literacy and the *Wood v. Strickland* case, the evolution of legal literacy had unfolded into a topic of need yet mandated changes have yet to occur. Researchers began their work by searching for the gaps in legal literacy based on course requirements for pre-service teachers. In 1994, researchers Patterson and Rossow reviewed 221 colleges and found that only eight percent of those universities offered an undergraduate educational law course to pre-service teachers. This work was then followed by Gullatt and Tollett who reviewed the fifty state teacher certification requirements and found that only two states mandated an educational law course to pre-service teachers (Gullatt & Tollett, 1995, as cited in Decker, 2014). A majority of the work completed prior to Gullatt and Tollett focused on certification and course requirement needs related to legal literacy of teachers. They expanded on this concept and polled teachers asking their personal belief, or self-efficacy, of their school law knowledge and areas of school law they were concerned with. Their findings concluded that

ninety-five percent of these teachers had taken no school law as part of their undergraduate preparation. Here legal literacy had been discussed as the need for knowledge of the law in all schools given the rise in court cases in the nation. This study explicitly correlated the lack of mandated certification in conjunction with the concerns premised in a lack of school law knowledge from teachers.

Definition of Legal Literacy

The phrase legal literacy has gained attention across the nation and quantitative studies began to unfold on this topic in addition to researchers attempting to define the term. Schimmel and Militello (2007) researched to determine the levels of legal illiteracy among teachers. They noted that legal literacy was understanding and implementing the law within the school as educators are licensed through the state. This definition evolved since Gullatt and Tollett's (1995) study as the appropriate implementation of school law was now being discussed in legal literacy. The results from the findings determined that there is a strong lack of legal literacy based on the survey results received. The consequences from such results could lead to teachers unknowingly violating students' constitutional rights in addition to teachers receiving incorrect information from other legally illiterate teachers and administrators (Schimmel & Militello, 2007). This study was the largest study conducted to not only determine certification courses, but also to test the legal knowledge of teachers.

Historically, legal literacy began out of the need to avoid litigation and understanding the rights of all active members of a school. Schimmel and Militello (2007) then contended that "By becoming legally literate, teachers will be able to use the law as a source of guidance to avoid

unconstitutional actions, to bring legal violations to the attention of colleagues and administrators, and to improve the educational experience of students by guaranteeing that their rights are understood and respected” (p. 274). This ideology expanded on improving the educational experience in a school (Schimmel & Militello, 2007). This concept necessitates legally literate staff members resulting in an improved educational experience in a school. The change needed to fulfill this becomes difficult as all staff members in a school would be required to become versed in school law knowledge and application. As there is no required training of school law for educators, gaps remain in legal literacy understanding.

Gajda (2008) began to review state expectations for teachers and their knowledge of school law. She noted that “teachers must possess essential knowledge, skills, and understanding of educational law if they are to be effective school-based professionals” (pg. 15). The need for legal literacy reached the bounds of protecting the rights of students in the building and the ability to act with intention and confidence in distressed situations (Gajda, 2008).

Following the findings from the continued research from Schimmel and Militello (2007), the evolution of legal literacy truly took stride in the educational world. As schools and the population were becoming more diverse, the needs of students were becoming greater than ever. With this change in diversity, the risk of litigation increased and was becoming more prevalent in the minds of educators (Berlin, 2009).

Ethical decision making became attached to the phrase legal literacy as Decker (2014) began to analyze previous research conducted and linked the work within legal literacy in addition to the changes in the educational field. An array of accountability measures brought into

education over the last fifteen years have rotated the definition of legal literacy toward the development of skills necessary to make better decisions and operate schools more efficiently (Decker, 2014).

Decker and Brady (2016) then contended that there was no consistent definition for the phrase legal literacy, yet they summarized and expanded on previous researchers' attempts at defining it. They stated their definition of legal literacy was "the legal knowledge, understanding, and skills that enable educators to apply relevant legal rules to their everyday practice" (pg. 233). Those who are legally literate can apply rules and policies into practice successfully (Decker & Brady, 2016). It is this definition offered by Decker that will be utilized with the continued work found in this dissertation.

Legal literacy among school administrators is essential to effectively operate schools. As the law continues to change, school principals must act as change agents while keeping updated with current law practices to make appropriate legal decisions through daily practice. Through continued practice of making appropriate decisions, principals can focus their attention toward improving student achievement or identifying and attaining school improvement goals. As litigation continues to increase in the field of education, the need for strong legally literate administrators has never been a more pressing issue in the field of education (Gilbert, 2017).

More recent research solidifies that there is no clear definition of legal literacy. This work illustrated similar findings of a lack of teacher legal literacy within the knowledge of school law. The considerations of enhancing legal literacy could be expanded if teachers were to receive professional development in legal literacy after actively teaching. These learning opportunities

could come through in-service learning or supporting teachers attending legal literacy trainings (Summers et al., 2020). It is possible that as administrator knowledge and self-efficacy improves within legal literacy that they could provide training or mentorship to staff within the school building. These research paths could open the door to solidified findings needed for mandated and continued legal literacy training of school personnel.

Legal literacy among school administrators is essential to effectively operate schools. As the law continues to change, school principals must act as change agents while keeping updated with current law practices to make appropriate legal decisions through daily practice. Through continued practice of making appropriate decisions, principals can focus their attention toward improving student achievement or identifying and attaining school improvement goals. As litigation continues to increase in the field of education, the need for strong legally literate administrators has never been a more pressing issue in the field of education (Gilbert, 2017).

While this paper will use the definition of legal literacy offered by Decker and Brady (2016), the emphasis on professional development offered from Summers et al. (2020) becomes a focus to fulfill the intended purpose of legal literacy. It is with continued learning opportunities or mandated professional development that practicing school personnel can apply relevant legal rules into their everyday practice. When knowledge is continued while in the practice of teaching, the applicable learning and outcomes in practice can be maximized for optimal legal literacy.

Accepting the definition of legal literacy is simply the first step in beginning to analyze the misapplication of practice in schools. Previous legal literacy research has primarily focused

on the lack of pre-service school law coursework of teachers. While considering legal literacy among school administrators it can be determined that this group has gaps in their legal literacy as well (Militello et al., 2009). Through analysis from surveys, specific amendments can be analyzed from the results. The First Amendment is unique when considering legal literacy as how it is applied in schools has evolved over the past fifty years. The term “clear and substantial disruption” places ambiguous parameters on the application in schools. Additionally, changes in school law and new mandates in schools require school personnel to keep abreast of changes in law and how those changes apply in schools. It is for this reason that this dissertation will focus specifically on the First Amendment rights in a school.

The First Amendment

On December 15th, 1791, the United States ratified the Bill of Rights. These rights were created for all U.S. citizens and were amplified as the cornerstone of our democratic society. The First Amendment of the U.S. Constitution states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” These words written so eloquently over two hundred years ago are still debated and scrutinized and the public school system has not been immune to such scrutiny and debate.

At its most basic interpretation, freedom of speech is the right of any citizen to speak freely, assemble, and express their religious beliefs. Although people have the right to speak freely, there are limitations to speech. In 1950 the Supreme Court ruled that two steps were

required in order to limit the freedom of speech for the purposes of protecting the government. First, the government must show an interest in limiting the speech and secondly, there must be some sort of understood danger from the words stated (Alexander & Alexander, 2019). This test then began to evolve in the school system through a number of influential court cases that have driven the understanding on how the First Amendment is applied within the school setting.

Key First Amendment Cases – Free Speech

The First Amendment rights in accordance with free speech in schools is one of the most heavily debated topics in education. The cause for debate is two-fold based on a plethora of cases that have been decided for and against schools, but also with the increase in student access to social media and a nexus to the school in accordance with actions that take place outside of the school building. Of all of the cases that have gone through lower-level courts, the Court of Appeals, and the Supreme Court, no case is more relevant and impactful than *Tinker v. Des Moines* (Waggoner, 2013).

Tinker v. Des Moines

In December of 1965 a group of students and adults met to determine a way of publicizing their objection to the Vietnam War and to act in support of the troops. The students decided they would wear a black armband and fast on December 16th while at school. School principals became aware of the proposed plan and adopted a policy that restricted any students from wearing an armband. If the student were to refuse to remove the armband they would be suspended until they were prepared to return to school without the armband on. Two days later Mary Beth and Christopher Tinker wore their black armbands to school and were sent home and suspended from school. As this case traveled through the court system it was noted that there

was no indication that the school was not disrupted by their work. During the protest a few students made ‘hostile remarks’ to those students wearing the armbands, but no threats or acts of violence were made while on school grounds. Yet there was no policy created to prohibit the wearing of any political or potentially disruptive items, just the prohibition of the black armband that spoke against the Vietnam War. The district court and the Court of Appeals held in favor of the school district. The case was then brought to the Supreme Court. It was through these findings that the Supreme Court ruled in favor of the students and noted there was no material or substantial disruption based on the armbands (Alexander & Alexander, 2019).

This case noted that students do not shed their constitutional rights to freedom of speech or expression as they enter a school. Additionally, the courts noted “Our Constitution says we must take this risk...and our history says that it is this sort of hazardous freedom – this kind of openness – that is the basis of our national strength and of the independence and vigor of Americans” (p. 466). It is this right that preserves our ability to freely speak and express our views in a non-confrontational manner without fear of retaliation. The Constitution does not allow employees of the state to deny the freedom of expression or censorship through non-violent avenues. The longstanding ruling since the conclusion of *Tinker* has been the determination of the material and substantial disruption test that is still used in the educational system to this day. *Tinker* paved the path on the continued deliberation of what is allowed and what can be censored when considering freedom of speech (Alexander & Alexander, 2019). In fact, the court’s ruling displayed just how important and impactful the role of schools can play in preparing citizens of America (Ehrensall, 2012). Following the ruling from *Tinker*, the courts have continued to review cases where the First Amendment speech rights of students are being

challenged based on decisions from schools. The aftermath of Tinker has also shown that schools can and will be held liable for their actions (Reglin, 1992).

Bethel v. Fraser

While considering the speech protections from the United States Constitution, we saw that in Tinker, the speech being protected was in the form of expression. One of the landmark cases still used in the educational system hindered around the censorship of real speech when considering the content as obscene or uncivil. To help clarify the meaning of obscene, in 1950 the Supreme Court identified that material is considered obscene if it “(a) appeals to a prurient interest in sex; (b) has no serious literary, artistic, political, or scientific merit; and (c) is on the whole offensive to the average person under contemporary community standards” (p. 468). Here the courts had offered the disparity between acceptable free exercise of language and potential parameters that could hinder speech under the categorization of obscene or vulgar (Alexander & Alexander, 2019).

In 1983 at Bethel High School in Washington, student council speeches were given at a whole school assembly. A student by the name of Fraser spoke at the assembly in support of a friend, but as he addressed the student body, he used multiple explicit sexual metaphors throughout his speech. Such phrases included but are not limited to: he’s firm in his pants...he drives hard, pushing and pushing until finally – he succeeds...Jeff is a man who will go to the very end – even the climax. Prior to this speech being given, two of Fraser’s teachers informed him he should not give the speech as there could be serious consequences for giving this speech at the assembly. Staff confirmed during the speech that the student body was mixed between those that seemed embarrassed while others were cheering for the speech (Ehrensall, 2012).

Bethel High School had disciplinary policy against lewd speech stating, “Conduct which materially and substantially interferes with the educational process is prohibited, including the use of obscene, profane language or gestures” (p. 471). School administration met with Fraser the following day and provided five letters submitted from staff regarding his conduct at the assembly. He was afforded his due process during the meeting as he informed the administration that he deliberately used sexual innuendos during the speech. He was suspended for three days due to his actions. His parents then filed suit against the school district, alleging the school district had violated the First Amendment rights of Fraser (Alexander & Alexander, 2019).

Upon review of the case, the district court, and the Court of Appeals both sided with Fraser on the basis that there was no disruption to the educational environment based on the speech. Additionally, the lower courts also rejected the notion that the school district disciplined on the basis of protecting an audience of minors from lewd language while in a school setting on the basis of refusing to allow continued hindrance on what is acceptable and not acceptable speech in public schools. This case then went to the Supreme Court. The Supreme Court took into consideration the ruling from *Tinker* in a manner of protecting the rights of speech and expression of students. The Supreme Court also took into consideration “The undoubted freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against the society’s countervailing interest in teaching students the boundaries of socially appropriate behavior” (p. 472). The Supreme Court continued to acknowledge the pervasive sexual references in Fraser’s speech and the serious damage the content from the speech could impress upon teenage students based on the continued lewd language. It was with this justification that the Supreme Court noted that it is within the rights of the school board to

determine what manner of speech is considered inappropriate in the view of the school. The Supreme Court ruled in favor of the school district and justified the response from the school from this case (Alexander & Alexander, 2019).

The ruling from *Bethel v. Fraser* has carried over in numerous court cases over the past thirty years when actual speech is considered lewd or indecent (Waggoner, 2013). This case has become a pivotal case when considering the freedom of speech justified under the First Amendment of the Constitution in conjunction with speech that borders obscene or uncivil in nature. The controversy from this case that has carried forward is that the Supreme Court gives flexibility to the school districts in disciplinary actions in order to maintain security and civility in a school. It is with this leeway offered that schools would continue to be scrutinized for their actions toward behavior that could be considered a material or substantial disruption.

Hazelwood v. Kuhlmeier

Transitioning from the Fraser case centered on the censorship of public speeches in a school, we transition to a case established around the topic of restrictions of published student speech. In 1983 in the Hazelwood school district in St. Louis, Missouri there was a case that evolved around a high school newspaper, *Spectrum*. This newspaper was created through a journalism class offered from the high school. The newspaper was monitored by the teacher of the journalism class and each edition of the newspaper was submitted to the principal for final approval prior to the printing and distribution of the newspaper, which aligned with the established school policy noting that school-sponsored publications are aligned with the curriculum and have educational implications in the classrooms (Alexander & Alexander, 2019).

Toward the end of the school year, the newspaper submitted a draft to the principal and two articles were removed from the newspaper based on his determination. One article was written from the perspective of three female students who were pregnant. The article did change the names of the students, but it was determined that there were other identifying factors in the article that could foreseeably identify the students. More specifically, the article did note sexual histories of those interviewed and the use or lack thereof with birth control. The determination of this article was the inappropriate content that this article could have in the hands of freshmen students and potentially the families and even younger siblings in those households (Russo, 1989). The other article was written based on the impact of divorce on a student. The content of this article went into specifics on the reason for the divorce and the principal was unaware of the names being removed from this article. Additionally, Reynolds (principal) believed the family had a right to consent to the article being printed. Based on the two articles being removed, the defendants determined their rights of freedom of speech and expression had been violated from the school district and they filed suit (Alexander & Alexander, 2019).

The Circuit court ruled in favor of the school district based on the censorship of the newspaper and the removal of the two articles. The basis for this decision was that the court found that the newspaper was an integral part of the school curriculum with the connection to the journalism class and the principal's actions were reasonable. The Court of Appeals then reversed the decision of the lower-level court stating that the Hazelwood School Board had violated the First Amendment rights of the three students through the removal of the two articles and censorship of the school newspaper. The Court of Appeals noted that even though the newspaper was part of the journalism class, it was also a public forum, which has established First

Amendment rights. The Court of Appeals also referenced the *Tinker* standard, which searches for a reasonable and substantial disruption of which none was found (Russo, 1989). The school district then filed suit to the Supreme Court, which took into consideration the rulings from each of the two previous court rulings. The Court took a further view into the determination of a school newspaper as a public or non-public forum. The ruling was that the school newspaper was not a public forum as it fell under the direction of the school curriculum specifically under the teacher's control (Lomicky, 2000). The determination to vote in favor of the school district was also due to the school's obligation to consider the publication of the newspaper could jeopardize the legal, moral, and ethical parameters for the foundation of the school community (Alexander & Alexander, 2019).

The *Hazelwood v. Kuhlmeier* case determined the reach of freedom of speech when a connection to school curriculum was considered. The questions derived from the outcomes at the three court levels from *Hazelwood* had an impact on school district questions on the First Amendment rights following the case. The SPLC (Student Press Law Center) in Washington D.C. is the only national legal assistance agency when considering student's freedom of speech rights through press. In 1995 the agency reported 542 legal request calls from students or sponsors during the year and in 1996 they reported receiving 605 such contacts. The organization had also reported that a majority of the calls were based on censorship (Lomicky, 2000). The results illustrate there is question and concern on the publication of specific materials and the connection to school curriculum that followed years after the Supreme Court ruling. It can be interpreted that the application of the ruling could be in question or the different views from the

different courts on how the determination was made also leaves room for question and concern on the part of schools moving forward.

Morse v. Frederick

We have previously reviewed three cases of student freedom of speech or expression rights while inside of the school. Here, different tests were put into place for schools to determine the level of disruption to determine their ability to censor the speech or expression of students. In 2002, the court system would prepare to determine the extent to what a school district can censor when considering actions inside of the school and those that take place outside of the school setting. It was here that in January of 2002 the Olympic Torch Relay was passing through Juneau, Alaska. The school principal (Deborah Morse) allowed students to participate in the viewing of the relay while teachers and administrators supervised the students. Joseph Frederick brought a banner to school that morning and during the relay, he and a group of his friends unveiled a large banner that read 'Bong Hits 4 Jesus'. As principal Morse saw this banner, she demanded the students take down the banner. All students except for Frederick accommodated this demand. Morse decided to take the banner from Frederick as he was told to report to her office. It was there that she suspended him for ten days for his actions (Russo, 2007). Morse later had reported that the suspension was linked to the school policy pertaining to encouraging illegal drug use (Alexander & Alexander, 2019).

The Frederick family appealed the suspension to the school superintendent, who upheld the decision but reduced the number of days from ten to eight. The Frederick family then chose to file suit against Morse and the district on the grounds of the violation of Joseph's First Amendment rights. The federal court ruled in favor of the principal and school district noting the

principal acted appropriately to denote the message about illegal drug use from the sign. The federal court also noted that the torch relay was an approved school event resulting in school rules applying based on the behavior of the students. The parents brought the case to the Court of Appeals who sided with Frederick that the First Amendment rights of Joseph were overlooked and not applied correctly in the decision. The Court of Appeals ruled in favor of the student. This resulted in the principal and school district seeking to have the case heard by the Supreme Court. This court applied portions from *Tinker*, *Fraser*, and *Hazelwood* while considering the outcome of this case. It was determined that free speech rights of students must be reviewed in the school environment to determine if students were acting properly. Additionally, the Supreme Court determined that the principal acted swiftly and out of concern from the promotion of illegal drugs as noted on the banner. The Supreme Court ruled in favor of the school district and principal (Russo, 2007).

The importance of the four previous cases is that each has been established from the First Amendment rights of students but has unraveled into a different entity from within that constitutional right. Additionally, each has had different rulings from the three levels of court rulings. This result could be one reason that there is so much uncertainty in how schools should act when faced with the balance between abiding by student rights and protecting the integrity of the school and students.

Mahanoy v. B.L.

Most recently in schools, there is a battle between the separation from the end of the school day and governing the actions of students outside of school from within the school buildings. Specifically, cases that involve incidents that occur outside of school but are

categorized as completed through social media have school leaders unsure if the school law applies toward potential student misuse of technology off campus. The reach and balance of the First Amendment rights aligned with the freedom of speech while combating the different opinions of previous court cases at the different levels of the court system has school leaders searching for answers (Gooden, 2012).

During the summer of 2021 the most recent case contended on the premise of the First Amendment right of speech from a student and the battle with the school concluded. Brandi Levy was a freshman student in a Pennsylvania high school who had just tried out for varsity cheerleading at her high school. She did not make the varsity team, but she did make the junior varsity cheer team. The weekend following this happening B.L. was at a store and posted two messages on Snapchat of which she had about two hundred fifty followers. One message included explicit language about school, softball, and cheer. The other message had the comment “Love how me and [another student] get told we need a year of jv before we make varsity but tha[t] doesn’t matter to anyone else?” (p. 2). These two messages began to circulate to other members of the cheer squad, one of whom has a mother who was one of the cheer coaches. After a meeting with administration, the school suspended B.L. for one year from the cheer squad. The parents filed suit against the school district stating the school violated her First Amendment speech rights (Hudson, 2021).

The district court ruled in favor of the student applying the *Tinker* rule that there was no substantial disruption to the educational environment given the post was sent out of school and did not carry over into the operation of the school. This ruling was challenged to the Court of Appeals where the decision once again sided with the student. The Court ruled that the *Tinker*

rule does not apply to off campus speech and there was no consensus on a substantial disruption from inside the school. The school district then appealed to the Supreme Court. This court also ruled in favor of the student but noted that schools can have some interest in off campus speech when it involves “serious or severe bullying or harassment targeting specific individuals; threats aimed at teachers or other students” (p.102) among other categories (Hudson, 2021).

It is with the ruling from the most recent case that the question of reasonable and substantial disruption comes into play as trivial and determined based on the subjective opinion of those adjudging. One case attempted to decipher what could be construed as reasonable and substantial. In the case of *Waters v. Churchill*, the court noted that a government employee’s reasonable prediction of a disruption could be applied in an effort to connect a disruption, yet there is still much leeway allowed with this attempted clarity (Newman, 1995). Previous rulings on students with banners in a crowd or a speech given at an assembly were governed and accepted by the Supreme Court given the reaction from the school. We now have a student who defames the school and sends the post to almost three hundred students who then pass this message to others and all three courts rule there was no reasonable or substantial disruption. The different rulings in the previous cases from the different levels of the courts add on to the confusion that lies on each school district when faced with a confrontational situation and the choice is to address the situation and in what manner, if any. The challenges that lie on schools and administrators continue to grow as the application of laws as simple as the First Amendment and freedom of speech become twisted and riddled with layers of interpretations and potential misapplications.

Key First Amendment Cases – Religious Freedom

The First Amendment affords the right to the freedom of religion and expressing a person's religion. Within the First Amendment's freedom of religion was established the Establishment Clause that notes "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof" (p.66). The inception of the Establishment Clause had held true for almost two hundred years, but litigation around the separation of church and state began in the middle of the twentieth century and has grown and changes in the law for schools to work within have caused struggles (Heinrich, 2015).

Everson v. Board of Education

One of the first cases that challenged the separation of church and state was the famous *Everson v. Board of Education* in 1947. It was in this case that the Supreme Court determined that federal funding could be used to provide transportation in parochial schools. It was determined that this use of funds was not a violation of the Establishment Clause, yet this case was important to the First Amendment as it established that schools were specifically connected to the state and church separation (Alexander & Alexander, 2019). This case determined that there was a separation of church and state, yet the state could support parochial schools provided there was still separation between the church and state. It was with this ruling that states across the nation began to initiate specific laws that provided monetary support to parochial schools, yet as these laws became enacted the potential for litigation grew with the fine line requiring the separation of church and state.

Lemon v. Kurtzman

A case that has resonated in an attempt to illustrate separation between church and state was *Lemon v. Kurtzman*. In the late 1960s, Pennsylvania and Rhode Island had adopted programs that provided state monetary support to parochial institutions. The support could be used for not only supplies within the school, but it could also assist in the payment of teacher salaries. The concern that came from this was the use of federal money to support private institutions given the potential violation of the First Amendment Establishment Clause mandating the separation of church and state (Alexander & Alexander, 2019). The Supreme Court determined that these laws were a violation of the Establishment Clause and the vagueness currently in place left the potential for violation given the interpretation of federal funding supporting private institutions.

It was with the ruling above that the Supreme Court created what is referred to as the Lemon Test, which was a three-tiered test to determine if there was a violation between church and state when considering public education. States could adopt support statutes toward parochial institutions and not violate the constitution if “Schools must do nothing to prohibit or promote religion, schools must be motivated by a secular purpose, and schools must avoid excessive entanglement” (p. 70). This test allowed for the intended purpose of the Establishment Clause to remain in that school must allow the freedom of expression of religion while finding separation from religions (Heinrich, 2015).

Cases involving the rights to practice religious activities in public schools have grown since the 1980s. On the campus of the University of Missouri denied a religious group the use of a building on the campus grounds in fear of violating the Establishment Clause, which was

created to provide separation between church and state. The Supreme Court ruled that denying a religious group access to facilities while allowing other groups access to those facilities is a violation of the students right to free speech. This case (*Widmar v. Vincent*) became a landmark case on the inception of the Equal Access Act (Alexander & Alexander, 2019).

Following the Equal Access Act from 1984 a multitude of cases have come to the forefront of the Supreme Court regarding the denial of a one-minute time to pray silently or meditate in a public school or the removal of prayer during graduation services as these cases involved the excessive entanglement between the church and state. The courts continue to acknowledge the need for separation between the church and state while removing any school-sponsored religious moments (Heinrich, 2015).

Westside Board of Education v. Mergens

A case that has had an effect on the freedoms of religion in public schools is *Westside Board of Education v. Mergens*. In 1990, a group of students was denied the right to meet on school grounds during non-instructional time. The determination from the school was that the school policy required a faculty sponsor for any club and the Establishment Clause prohibited a sponsor of a religious club. The determination of the Supreme Court was that students have the right to freely exercise their religion on school grounds given there is not a material or substantial disruption to the school (Alexander & Alexander, 2019). Here the ruling was to allow the freedom of religion in schools as the religious student group has the same right as a non-religious student group when considering the use of school facilities.

More recently there have been additional laws created to protect the freedom of religion, yet there is also conflict between the state and church. The state requires all students to

participate in physical education during the school year. However, over the past few years, states have passed bills allowing for the excusal of physical education based on religious beliefs, or even excusal while fasting (Schwartz & Maley, 2021). Another growing piece of legislation is with the inclusion of students identifying with a different gender, physical education programs should no longer be divided on the basis of gender (Ayala, 2020). On the contrary some religions hold true to the value that after females begin puberty they cannot participate in physical activity with students of the opposite sex (Kanwal, & Jorgensen 2014). With this intersection of beliefs, schools must determine their place when there must be separation of church and state in a public school. It is with situations like these that the need for legal training and understanding within each building is necessary to navigate through the situations presented to schools where there is potential for conflict among the constitutional rights of students.

This overview of key First Amendment court cases illustrates how changes in the law have influenced the way that freedoms of speech and religion are censored in schools. As schools have the responsibility to uphold the law, the knowledge and ability from staff within the school to properly censor those rights cannot be overlooked.

Teacher Legal Literacy Measured

Previous empirical research on the topic of legal literacy will show there are gaps in the necessary understanding of school staff in regards to the knowledge necessary to properly operate within compliance of the law. A majority of the research collected comes from testing the legal literacy knowledge of classroom teachers with a much smaller portion determining the knowledge level of school administrators.

One of the first empirical studies composed came in 1995, when two college professors in Louisiana created a survey to determine knowledge of current teachers in addition to their level of schooling associated within the confines of legal understanding. Gullatt and Tollett (1995) viewed schools as a complex environment given the wide range of legal concerns affiliated within. Schools not only encompass the teachers, students, and administrators that work inside the physical buildings, but also the parents who represent each child. Additionally, they began to consider the new laws linked to education that were becoming enacted across the country as a result of court litigation cases (Gullatt & Tollett, 1995).

Gullatt and Tollett (1995) surveyed 480 teachers in the state of Louisiana to determine information on law requirements in undergraduate or postgraduate courses in addition to their knowledge of school law. Results from the survey showed that ninety-five percent of teachers reported taking no course in school law as a part of their undergraduate requirement.

Additionally, ninety percent of the teachers who have received advanced degrees in education had responded they also had not taken school law coursework, nor was it recommended by any advisor. The results of the survey data showed that teachers had concerns in multiple areas of school law regardless of their specific level of attained education. Teachers also reported an interest in becoming educated in all areas of school law. This research presented concerns in specific areas related to school law stemming from a lack of knowledge. The Louisiana Association of School Executives reviewed current litigation and estimated that the amount of law cases against teachers and administrators had risen over three hundred percent over the previous ten years with an estimate of over ten thousand cases being filed nationally each year (Gullatt & Tollett, 1995). Here we have some of our initial evidence that the educational

population that is interested in attaining legal understanding has never had the opportunity to gain the knowledge they feel was necessary in their profession.

Over the next ten years, the majority of data collected on legal literacy came through surveys given to teachers asking for information on any undergraduate law coursework taken and determining if staff preferred to receive training on school law. Most of these surveys were based out of one state or a smaller range of participants. See Table 1 which illustrates a depiction of surveys that were given to school personnel and the intended purpose from each in addition to the findings.

Table 1. Research on Legal Literacy

Author	Year	Definition of Legal Literacy	Who and how measured?	RQs	Main Themes
Hillman	1988	Knowledge of school law and cases affecting education	Survey to 142 administrators in Massachusetts	Why is there a void in school law knowledge among school administrators?	Legal knowledge and background for different levels of administrators
Gullatt & Tollett	1995	Being advised of the impact of law within the classroom	Survey to 480 teachers in Louisiana	What is teacher experience with law in their own education?	Most teachers have taken no law courses and would like to
Gordon	1997	Substantial understanding of the law	Survey to administrators in West Virginia	What is the understanding of school law compared to school law PD?	Law classes were the greatest indicator of knowledge in administrators
Schimmel & Militello	2007	Appropriate knowledge and application of law in classroom	Questionnaire from over 1300 teachers in multiple states.	What is teacher understanding and application of law?	Most teachers are legally illiterate
Gajda	2008	A need to avoid costly and timely litigation, make responsible disciplinary decisions, and uphold the rights of the students within a building	Survey to state education bureaus on certification needs of teachers	What are the certification requirements in accordance with legal literacy for teachers?	Teachers are victims of a certification system that does not require legal literacy
Militello, et al.	2009	Establish policies and practices based on legal standards while also supporting staff development	Survey from 493 administrators on legal literacy	What is administrator knowledge of law?	Administrators need continual training to appropriately support the law in schools

(Continued on following page)

Table 1 (continued)

<u>Author</u>	<u>Year</u>	<u>Definition of Legal Literacy</u>	<u>Who and how measured?</u>	<u>RQs</u>	<u>Main Themes</u>
Petty	2016	There is a need for all educators to gain knowledge in the area of school law	Survey to 312 administrators in Alabama	Is there a correlation between self-perception of school law course compared to professional development training?	All areas of school law questioned noted that professional development was the most recent form of training for administrators
Decker, et al.	2019	School employees that are able to spot legal issues, identify applicable laws or legal standards, and apply the relevant legal rules to solve legal dilemmas	Questionnaire to 107 teachers and administrators who have recent taken a graduate level school law course	Does legal training affect the actions and attitudes and in what way?	Legal training has a positive impact on teachers and administrators
Summers, et al.	2020	The legal knowledge, understanding, and skills that enable educators to apply relevant legal rules to their everyday practice	Questionnaire linked with specific law knowledge of Indiana teachers	What is the legal literacy knowledge of teachers in Indiana?	Legal literacy of teachers is currently insufficient

A new development in legal literacy came to the attention of educators through a survey conducted in 2005-2006. In this survey, over thirteen hundred educators spanning over seventeen states were presented with a survey that not only asked about previous courses in their education associated with law. This survey offered twenty-nine true-or-false questions relevant to school law, while also asking each to rate their own level of legal knowledge and gauging their interest in learning more about school law. This research offered parallels that previous research lacked when analyzing the legal understanding from teachers and a lack of academic training (Schimmel & Militello, 2007).

This study put into perspective the primary resources when it comes to knowledge of school law among teachers. Here it was determined that the two largest groups that offered legal knowledge to teachers were other teachers in the school or school administrators. The concern with teachers being the source of legal literacy for other teachers is that based on the findings,

over half of the teachers surveyed were uninformed or misinformed about teacher and student rights (Schimmel & Militello, 2007). “Principals’ perceived need for more legal knowledge is especially significant, since our survey found that school administrators are the primary law teachers for their faculty, second only to their fellow teachers” (p. 273). The need for school law professional development or requirements from pre-service teachers became marketable after this survey. The focus of this survey was on teacher legal literacy, yet another layer opened from this research. As principals are the second source of legal understanding to teachers, what are the expectations that principals receive mandated legal training during their pre-service work and while they are in the active role?

Administrator Legal Literacy Measured

During the annual meeting of the American Educational Research Association in 1988 a professor by the name of Susan J. Hillman began to assess the legal knowledge of school administrators. For her research, she had surveyed 142 administrators in the Massachusetts school system ranging from superintendents to secondary and elementary principals. The findings determined that almost ninety percent of those that responded felt that administrators must have knowledge of school law. Additionally, administrators with background knowledge of school law were more comfortable in their ability to address students’ rights issues as opposed to those administrators with no knowledge of school law. Almost half of all principals reported they depend on other administrators in their district for knowledge on legal matters (Hillman, 1988). This presentation was one of the first quantitative reports that presented the rationale for improved legal knowledge at the administrative level while also illustrating the reciprocal exchange of legal understanding from one administrator to another.

With the increase of administrators involved in a lawsuit in the 21st century, additional research began to shift on administrator legal literacy (Gilbert, 2017). A survey was given through the National Association of Secondary School Principals (NASSP) to determine matters relating to administrator school law and application knowledge. Just under five hundred administrators completed the survey. The most common themes from the survey were that over 85% of principals wanted to know the answers to the legal literacy questions they were asked in the survey and that administrators wanted to know more about school law (Militello et al., 2009). This data and the crave for information were an initial sign that school administrators want to know the answers to better support their schools.

From this survey, 34 questions were associated with the rights and responsibilities of both students and teachers. In the survey, only 54% of the administrators were able to accurately answer questions regarding the rights of students. These included fourteen questions that have been written based on previous court hearings and are considered well-known in the educational field. The lowest scored question (16% correct) revolved around the First Amendment protection rights of student speech. Similarly, only 65% of the administrators were correct when responding to questions pertaining to the rights and responsibilities of teachers. The First Amendment rights of teachers were also questioned in this survey regarding teachers being disciplined for publicly criticizing school policies of community concern with just over half of administrators answering this correctly (Militello et al., 2009). It is apparent that within this survey there is confusion and misunderstanding when considering the application of First Amendment rights of students in schools.

An alarming piece of data also from the NASSP survey found that 31% of administrators have changed a decision regarding student discipline based on the threat of litigation. Almost all administrators shared that they have given their teachers legal advice so it makes sense that “principals should become conscious, informed, and effective school law teachers of their staff” (Militello et al., p. 42, 2019). Administrators are the part of schools that are establishing and determining when school law is not followed, yet when the fear of litigation is presented, some will alter a decision when not confident in their legal knowledge. It is with this data that we can support the need for school administrators to evaluate their own legal literacy as they are one of the primary sources of legal information to the school building (Decker et al., 2019).

A ten-year study has been conducted through the National Association of Elementary School Principals that began in 2008. The survey asked school administrators a wide range of questions and topics based on their experiences as an administrator. Results specific to legal literacy showed that almost 40% of school administrators viewed litigation as a major or minor concern in their work (Fuller et. al., 2018). This report broke apart administrator experience while reviewing the data collected. Data revealed that administrators who had served in the building principal role for fifteen years or longer were more concerned with the potential for litigation as compared to principals who had been in that role for less than five years. A connection could be made between the confidence in law decisions for administrators and the time since the most recent mandated coursework in school law.

More recently, researchers have begun to determine the level of impact taking a school law course can have on teachers and administrators. Just over one hundred students from Indiana University were polled based on the recent completion of a master’s level school law course

(Decker et al., 2019). These recent students were asked a series of questions based on their thoughts on legal literacy after taking the class. The results found that 88% of the participants stated they were more confident regarding school law issues after completing the law class. Additionally, 85% of the respondents noted they altered their previous work or actions as a direct result of taking the school law course. Both teachers and school administrators acknowledged that the graduate-level course had a positive outcome based on their actions and beliefs as educators. “A common theme was that school leaders and teachers were more empowered and less afraid” (p. 168).

The direct implications of this study help validate the recommendations that have echoed over the last 25 years from previous researchers. School personnel lack the legal training to categorize themselves as legally literate and states have not mandated taking a school law class for pre-service teachers. Decker et al. (2019) shared that “school law courses must do more than simply impart legal knowledge; they must increase the legal literacy of school personnel” (p. 161).

Legal literacy becomes only a piece of the need for additional information on this subject matter. As legal literacy is the understanding of school law in conjunction with the ability to use it appropriately for the betterment of the school, the desire and need for increased awareness and knowledge in this field becomes another piece to this conundrum. A study was completed with over three hundred administrators in Alabama to determine the variations in self-perception of school law understanding compared to the training of administrators through college courses or professional development. The results of the research from Petty (2016) showed that fifty-seven percent of the administrators noted they had not taken a college law course in six or more years

with almost thirty percent not taking a course in the last ten years or greater (Petty, 2016). This report did not test the knowledge of the administrators surveyed, but it viewed the perceived school law understanding of administrators or self-efficacy.

Additional Research Needed

Additional research is needed to determine gaps in understanding and the extent of improving legal literacy necessary for school administrators. Building leaders must be cognizant of the knowledge and application of school law to effectively run a school within the compliance of the law. Additionally, building leaders are responsible for what takes place in every classroom under their guidance. It has previously been recommended that teachers should receive training in their coursework in accordance with legal understanding and application (Gullatt & Tollett, 1995). As there is no mandate on teacher knowledge of school law, the responsibility would fall on the school leader to ensure the building is in full compliance with school law.

We have also established there is no current mandate regarding the level of professional development pertaining to school law for school administrators in their current role. However, we do know that the law continues to change based on what is permitted in accordance with the legal system.

While it is clear that additional research is needed to determine school administrators' legal literacy specifically on First Amendment topics, it is likely that corresponding deficits in knowledge will need to be remedied via in-service learning opportunities. While there are many methods for providing structure and support to a professional development, one theory that may

be particularly useful in building and delivering relevant, impactful professional development in the area of legal literacy is self-efficacy theory.

Self-Efficacy Theory

Social cognitive theory, as explained by Bandura, posits that learning is affected by our mind, our own behaviors or those modeled by others, and environmental factors, which extend from previous beliefs on how people learned. One branch of social cognitive theory is self-efficacy theory, which is a person's belief in their ability to accomplish a task. This belief can be influenced by what a person is thinking, their motivation, or previous experience (Bandura, 1997). This theory is applicable in all environmental settings, but for the purpose of this paper it will be related to the educational setting. More recently, Tschannen-Moran & Hoy (2007) offered this example linking social cognitive theory with self-efficacy beliefs specific to a school setting:

According to social cognitive theory, teachers who do not expect to be successful with certain students are likely to put forth less effort in preparation and delivery of instruction, and to give up easily at the first sign of difficulty, even if they actually know of strategies that could assist these students if applied. Self-efficacy beliefs can therefore become self-fulfilling prophecies, validating beliefs either of capability or of incapability. (Tschannen-Moran & Hoy, 2007, p.945)

While considering this example, self-efficacy becomes an internal motivational construct based on the perceived outcome expectations. A person will judge their ability level prior to taking on a task and that expected outcome will influence the intended activity (Tschannen-Moran & Hoy, 2007). There then becomes a need to change expected outcomes when goals are not being met, which leads into behavioral change.

As Bandura continued to work within the field of behavioral change, he began to determine the impact of self-efficacy. Self-efficacy can be influenced by how much effort people put into a task, how long they will continue to work toward that task, how resilient they are when facing adversity in their hopes of success, and how they can cope in trying situations (Tschannen-Moran et al., 1998). Stronger self-efficacy will create greater goal attainment levels resulting in altered thinking and increased motivation. This self-belief then transfers into an enhanced ability to learn (Bandura, 1993).

Two people with the exact same skill set could have different levels of self-efficacy based on their perception of what is acceptable and not acceptable. This could then be the determining factor of the success from one person and the failure from the other person. People may overestimate or underestimate their own abilities which could then have resulting consequences based on the amount of resilience they determine is needed. Factors such as self-doubt or enhanced focus can sway the belief of success from one individual to the next (Tschannen-Moran et al., 1998).

Self-Efficacy Influences Action

The level of effect that self-efficacy can have on performance outcomes has been examined. A meta-analysis based on self-efficacy and work-related performance established the impact that self-efficacy can have on work-related performance. One hundred fourteen studies were examined to determine the latitude of the correlation. The results showed there was a significant correlation of .38 between self-efficacy and work-related performance (Stajkovic & Luthans, 1998). This correlation translates into a 28% average increase in performance based on the self-efficacy of an individual. It was through this research that self-efficacy became a greater

predictor of work performance than job satisfaction or individual personality traits (Stajkovic & Luthans, 2003).

An individual will have self-efficacy beliefs that are derived from observational or actual experiences. Based on the beliefs, a behavior can be influenced with a desired outcome associated. This process illustrates the relationship between efficacy beliefs and outcome expectancies, which influence behaviors. As people have strong beliefs in their capabilities, it can be assumed that a person will persevere in their work toward accomplishing a goal (Bandura, 1997). These beliefs which influence outcomes also translate into the educational field.

The level of self-efficacy of a teacher can influence their response to professional learning opportunities. Additionally, there is evidence to support the beliefs of a teacher in their abilities to effectively run a classroom can account for differences in the effectiveness between a school of teachers (Gibson & Dembo, 1984). Someone with a high level of self-efficacy could complete a professional development training and bring ideas and strategies back into the classroom or school building and begin to implement new work to determine success indicators. On the contrary, someone with a lower level of self-efficacy could leave the same professional development training and have additional questions or uncertainty on the implementation process from the training and not utilize the new strategies learned out of fear or worry on not correctly utilizing the new skills (Tschannen-Moran & McMaster, 2009). This rationale justifies the need to reflect after training and finding ways of supporting initiatives through other influences from the self-efficacy model.

Within the notion of working toward goals, there must be a correlation between the self-efficacy of an individual and their commitment to teaching and learning. A commitment to the

craft of education along with a high level of self-efficacy will be the driving forces into the intended results. Coladarci (1992) surveyed one hundred seventy teachers to attempt to determine if there was a correlation between self-efficacy and commitment of teaching. While considering eight predictors toward a commitment to teaching, personal and general efficacy resulted in the top two predictors associated toward a commitment to teaching (Coladarci, 1992). These findings correlate to a link between a higher level of self-efficacy and a commitment toward intended action.

Factors Influencing Self-Efficacy Theory

As a theory, self-efficacy sets forth four major ways in which one's own efficacy can be affected: performance accomplishments, vicarious experience, verbal persuasion, and physiological or affective states. These four areas are not mutually exclusive. One area can impact another area (Bandura, 1977). The impact of each of these sources of information is dependent on the cognitive processing of the individual related to their previous experiences and outcomes attained through each. The four sources of self-efficacy become a categorization of experiences and supports that have been learned or observed. Behavioral influences can come in the form of one or a combination of these sources (Bandura, 1997). It is the outcomes that result from those situations that shape our level of self-efficacy.

Performance Accomplishments

Performance accomplishments become based on personal mastery of different experiences. It is through these accomplishments that success from one experience can translate into success within different experiences that are similar (Bandura, 1977). Performance

outcomes or mastery experiences are considered to be the most influential of the four sources of behavioral change as this source is authentic and put into practice by the individual. As continued success is attained in performance experiences, the bridge connecting to similar experiences in the future becomes established and a more independent behavioral change becomes enacted (Tschannen-Moran & McMaster, 2009). The path toward accomplishing a task through performance builds the repertoire of resilience in an individual, thus correlating toward an overall improvement in self-efficacy. In contrast, continued struggles with a particular experience will result in a decreased sense of self-efficacy and the potential for resilience in attempting the task in the future.

As difficult tasks are met with success, the self-efficacy of an individual will increase which could result in the ability to accomplish other experiences that previously might have been considered unattainable (Bandura, 1997).

Considering the professional development that staff members work toward for improvement in their craft, successes found from professional development opportunities can lead toward an enhanced performance accomplishment experience. This application also carries over into vicarious learning experiences as it is often found that the practice of modeling and coaching is used primarily in professional development training of school personnel.

Vicarious Experiences

Self-efficacy is also molded based on viewing the actions of others in similar situations and the outcomes achieved. An individual who sees others successfully accomplish tasks that were considered threatening or difficult can help alleviate the fears associated with the task.

Through the vicarious experiences, an individual can begin to persuade their thinking that if others can overcome a task, they too can overcome or improve upon that task. Additionally, this vicarious learning mode becomes intensified if multiple people with different ability characteristics are also accomplishing a task with success (Bandura, 1977). Observing the success of others who have mixed ability levels allows for the consideration of own success through increased belief. It is through vicarious learning that behavior and action can be modeled and supported for continuous learning opportunities in schools.

Later in his research, Bandura furthered his assessment of vicarious experiences by noting that through the lens of social comparative inferencing, seeing someone similar who has similar attributes or ability successfully perform a task increases the level of self-efficacy in assuming a similar task. The individual can persuade themselves that if someone can perform the task observed, they can also perform that same task (Bandura, 1997).

Verbal Persuasion

While looking at methods of influencing human behavior through modes of treatment, verbal persuasion is one that is frequently used given the ease of applying it in a situation, yet success can be very limited as the personal experience is not associated with this treatment. Although verbal persuasion has limitations compared to personal and vicarious learning, it can contribute to successful behavioral change when applied (Bandura, 1977). As individuals have anxiety over a situation, quite frequently someone will be there to help talk through the experience and urge attempts at success. It is through this verbal persuasion that individuals who were once reluctant could attempt the experience and if success followed, verbal persuasion could lead toward an improved behavioral change through the performance accomplishment.

Verbal persuasion becomes more intensified when the persuasion is coming from someone with an established relationship. People who have the capabilities to overcome a task are more likely to attain that goal through verbal persuasion as opposed to people who lack the ability to complete the task (Bandura, 1997). When administrators are given the proper training and resources to become legally literate and are able to talk through the uncertainties of staff members, they can improve teacher self-efficacy to protect the rights of all students and staff.

An example of verbal persuasion in schools is any type of professional development training that provides new strategies or offers new information to staff members. The verbal input offered from professional development is established to strengthen the belief that staff can understand and progress with the information received to achieve higher levels of competence in their work (Tschannen-Moran & McMaster, 2009). Verbal persuasion has limited levels of effectiveness as the application piece of behavioral change is not experienced, yet it can bolster other sources of behavioral change and thus increase self-efficacy.

Physiological and Affective States

The first time a child goes to the doctor, they are usually scared and afraid. This general fear comes with the thought of getting a shot in the arm. The child's fear will continue to be heightened during the process up to the point of receiving the shot. This self-arousal heightens the physiological or emotional state to a state of dysfunction. Here the self-efficacy is low as the belief of overcoming an obstacle has shadowed the process itself. As people elevate their level of stress in a given situation, they increase their fear, and their overall behavioral state is not regulated due to the change in their belief. The fourth source influencer is the physiological state,

but as people work to reduce stress levels and remove the negative emotion from a situation, they can regulate their belief in what they can overcome (Bandura, 1997).

The level of emotional or physiological change a person experiences in a given situation can have an effect on self-efficacy. An individual can become anxious or fearful in a given situation to the point that there is a negative effect on the physical state of the person, causing a disruption in the anticipated behaviors associated with the experience. In another manner, a more controlled emotion can cause an increase in the senses and cause additional focus with heightened awareness of the experience causing an increase in self-efficacy (Tschannen-Moran & McMaster, 2009). If knowledge has been attained and support is in place through other modes previously discussed, the physiological state can be more controlled and increased focus can be brought to potentially controversial issues.

Legal Literacy and Self-Efficacy Theory

Bandura (1997) wrote, “People who doubt their capabilities in particular domains of activity shy away from difficult tasks in those domains. They find it hard to motivate themselves, and they slacken their efforts or give up quickly in the face of obstacles” (p. 39). Self-efficacy becomes a driving force in perseverance to overcome new or difficult obstacles. Without a positive belief in oneself, a difficult task becomes impossible (Bandura, 1997).

Teacher and administrator legal literacy levels are low in comparison to what both parties would deem necessary to function responsibly (Schimmel & Militello, 2007; Militello et al., 2009). As self-efficacy is the belief in one’s ability, it is also suggested that there are benefits to school personnel with a higher level of efficacy in comparison to their actual ability to create the

attributes of motivation and persistence while continually learn through increased efforts (Tschannen-Moran & Hoy, 2007). This increased sense of self-efficacy can be the motivating force toward continual learning and enhanced staff knowledge on legal literacy.

Mastery experiences are the most beneficial and meaningful of the sources of self-efficacy influence for an individual but enabling this toward legal literacy can be difficult. Yet, vicarious learning, social persuasion, and the physiological state are other self-efficacy modes that can also have a positive influence on legal literacy. Incorporating professional development and training into activities involving these influences has been found to increase teachers' self-efficacy and professional role (Gibbs & Powell, 2012).

Bandura (1997) stated, "People who have strong beliefs in their capabilities approach difficult tasks as challenges to be mastered rather than as threats to be avoided. Such an affirmed orientation fosters interest and engrossing involvement in activities" (p. 39). With high levels of self-efficacy, people will engage in high levels of involvement and commitment toward a task. High levels of effort will be invested, and resilience will be manifested during the process (Bandura, 1997). It is with a positive self-efficacy belief that school personnel will want to succeed in obtaining legal literacy through multiple measures of support and observed behaviors.

The connection between professional development and an increase in self-efficacy has been previously researched and correlates to the topic of legal literacy. Scribner (1998) reviewed the correlation between self-efficacy and professional development in education. His research showed that teachers with high levels of self-efficacy saw more intrinsic value in professional development while considering the professional benefits of the students and school. However, teachers with lower levels of self-efficacy relied on extrinsic motivation to engage with

professional development, primarily specific to student discipline or classroom management. This group of teachers had difficulty connecting the purpose of the professional development in comparison to their specific needs (Scribner, 1998).

School personnel are trained to teach content and shape the minds of children. They are not trained as lawyers with the knowledge necessary to assure everyone is afforded the same rights in a school. This concept brings the conundrum of balancing a primary understanding in education while having the knowledge and belief system to ensure safety and the rights of all.

Conclusion

As the case law has changed based on rulings from the Supreme Court, there is a definitive need for improved legal literacy among building administrators. Administrators with a strong understanding of legal literacy can ensure safeguards are in place while also providing training and support for staff through different modes of efficacy to equally learn and respond appropriately.

As the nation continues to work through the many challenges it faces with balances of the First Amendment rights of students, more cases are sure to surface that will impact public schools. From the NASSP survey previously mentioned, school administrators scored lowest on a question pertaining to the First Amendment (Militello et al., 2009). These findings are the primary reason for the specificity of this dissertation moving forward. Additionally, court rulings continue to alter the policies and practices within a school and it is essential that school administrators receive training on the appropriate method to implement court mandated changes. As litigation continues to rise in the educational system, there has been no greater time for the

improved legal understanding and wherewithal to be enacted for the betterment of each school building. Continuous training is necessary if we are to minimize the legal battles school leaders will face.

Principals are on the front line in each school and are responsible for the supervision of the building. Principals must establish practices that abide by school law while also supporting staff development through training (Militello et al., p. 42, 2019). School administrators are not lawyers by trade yet the expectation is that they have the legal literacy to ensure fundamental legal rights are preserved within the school building. Through legal training school leaders can better manage the operation of a school building and create a supportive learning environment for staff. It is through this leveled support model of continual professional development that will result in an increase in the self-efficacy belief individuals have in their work, which will result in a more solidified and opportune learning environment.

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PART 2

Introduction

The taxing work of school administrators is filled with words such as mandates, rights, initiatives, standards, and litigation. As educational research continues to bring about concerns from past practices, changes or reviews from current work remain ongoing. One area that draws much attention in school districts is when practices violate the law. In a fast paced school setting, the actions of adults must be decisive, but the ramifications can be severe if laws are not followed. It is with this notion that the phrase legal literacy has been gaining attention in the field of educational research. School law continues to change each year, yet there is no mandate that administrators must continue to educate themselves to improve their legal literacy and stay updated with changes in school law. This lack of mandated training magnifies the potential for litigation within school districts as the alternative needs of a building seem to mask the legal literacy need (Gilbert, 2017). The purpose of this paper is to examine the knowledge of school administrators specific to the First Amendment as it is applied in a school setting. The specific questions guiding this paper are:

1. *What are Illinois school administrators' knowledge of First Amendment issues in public schools?*
2. *What are Illinois school administrators' confidence levels in their knowledge of First Amendment issues?*

3. *Do knowledge and confidence levels match?*

A majority of the research specific to legal literacy has been from the perspective of teachers with a limited amount of research focused on the legal literacy of school administrators. Additionally, the confidence levels based on responses to legal literacy questions is almost non-existent in research. The results of this paper will be used to develop a professional development workshop for administrators, using self-efficacy theory as the guide to build the workshop.

History of Legal Literacy

From a historical perspective, the concept of legal literacy has been a matter of discussion amongst educational researchers for the last fifty years. One of the first known references to legal literacy came from two lawyers who were also college professors who spoke at the Annual Convention of the National Organization for Legal Problems in Education in 1974. Louis Fischer and David Schimmel spoke about the need to increase pre-service and in-service teacher awareness on specific court cases to address the growing demands in the classroom (Fischer & Schimmel, 1974). The following year, the case of *Wood vs. Strickland* played an additional role in the need for improved legal literacy in education. This court case determined that school personnel could be held personally liable for violating the constitutional rights of students. The courts ruled that school personnel shall not be allowed to fearlessly make decisions without affording students their rights and acting in good-faith measures (Alexander & Alexander, 2019). This decision ultimately magnified the need for legally literate staff members to ensure not only the rights of students but the livelihood and integrity of educators.

Schimmel and Militello (2007) researched to determine the levels of legal literacy among teachers. They noted that legal literacy was understanding and implementing the law within the school as educators are licensed through the state. They then contended that “by becoming legally literate, teachers will be able to use the law as a source of guidance to avoid unconstitutional actions, to bring legal violations to the attention of colleagues and administrators, and to improve the educational experience of students by guaranteeing that their rights are understood and respected” (p. 274). This ideology expanded on improving the educational experience in a school (Schimmel & Militello, 2007).

Ethical decision making became attached to the phrase legal literacy as Janet Decker began to analyze previous research conducted and linked the work within legal literacy in addition to the changes in the educational field. Numerous accountability measures brought into education over the last fifteen years have transitioned the definition of legal literacy toward the development of skills necessary to make better decisions and operate schools more efficiently (Decker, 2014).

Decker and Brady (2016) then contended that there was no consistent definition for the phrase legal literacy, yet they summarized and expanded on previous researchers’ attempts at defining it. They stated their definition of legal literacy was “the legal knowledge, understanding, and skills that enable educators to apply relevant legal rules to their everyday practice” (pg. 233). Those who are legally literate can apply rules and policies into practice successfully (Decker & Brady, 2016). It is this definition offered by Decker that will be utilized with the continued work found in this dissertation.

More recent research recommends considerations for enhancing legal literacy by expanding teacher knowledge through professional development in legal literacy after actively teaching. These learning opportunities could come through in-service learning or supporting teachers attending legal literacy training. This idea broached the idea of the timing of legal professional development in conjunction with knowledge of the law (Summers et al., 2020). It is possible that as administrator knowledge and self-efficacy improves within legal literacy that they could provide training or mentorship to staff within the school building. These research paths could open the door for mandated and continued legal literacy training of school personnel.

Legal literacy among school administrators is essential to effectively operate schools. As the law continues to change, school principals must act as change agents while keeping updated with current law practices to make appropriate legal decisions through daily practice. As litigation in education continues to increase, the need for strong legally literate administrators has never been a more pressing issue in the field of education (Gilbert, 2017).

While this paper will use the definition of legal literacy offered by Decker, the emphasis on professional development offered from Summers et al. (2020) becomes a focus to fulfill the intended purpose of legal literacy. It is with continued learning opportunities and mandated professional development that practicing administrators can apply relevant legal rules into their everyday practice. With standard expectations on keeping current with legal literacy, administrators can be the primary source of support for teachers within the realm of school law. When knowledge is continued while in the practice of teaching, the applicable learning and outcomes in practice can be maximized for optimal legal literacy.

Administrator Legal Literacy

One of the first studies into administrator legal literacy came in 1988 when professor Susan Hillman began to assess the legal knowledge of school administrators. For her research, she had surveyed 142 administrators in the Massachusetts school system ranging from superintendents to secondary and elementary principals. The findings determined that almost ninety percent of those that responded felt that administrators must have knowledge of school law. Additionally, administrators with background knowledge of school law were more comfortable in their ability to address students' rights issues as opposed to those administrators with no knowledge of school law. Almost half of all principals reported they depend on other administrators in their district for knowledge on legal matters (Hillman, 1988). This survey began the discussion on the need and reliability for administrators to have strong legal literacy.

The next major development in administrator legal literacy came with a 57-question survey that was given through the National Association of Secondary School Principals (NASSP) to determine matters relating to administrator application and knowledge of school law. Just under five hundred administrators completed the survey. The most common themes from the survey were that over 85% of principals wanted to know the answers to the legal literacy questions they were asked and that administrators craved additional knowledge regarding school law (Militello et al., 2009).

The NASSP survey presented 34 questions that were associated with the rights and responsibilities of both students and teachers. An alarming piece of data also from the NASSP survey found that 31% of administrators have changed a decision regarding student discipline

based on the threat of litigation. In the survey, only 54% of the administrators were able to accurately answer questions regarding the rights of students. The lowest scored question (16% correct) revolved around the First Amendment protection rights of student speech. The First Amendment rights of teachers were also questioned in this survey with just over half of administrators answering these correctly (Militello et al., 2009). It is apparent that there is a need for growth from administrators pertaining to the knowledge and application of the First Amendment in schools.

The results from previous research illustrate there is a lack of legal literacy from administrators and this lack of knowledge has led to a continued fear of litigation. Although it was not researched, it is possible that confidence levels with some areas of legal literacy are low as administrators openly discussed changing decisions based on a threat of litigation. This research also illustrated that questions specific to the rights of students are an area that requires additional training as just over half of the administrators were able to answer those types of questions correctly.

First Amendment Speech in Schools

The First Amendment is unique when considering how it has changed specific to application in schools over the past fifty years. The term “clear and substantial disruption” places ambiguous parameters on the application in schools. Additionally, changes in school law and new mandates in schools require school personnel to keep abreast of changes in law and how those changes apply in schools. It is for this reason that this dissertation will focus specifically on the First Amendment rights in a school.

On December 15th, 1791, the United States ratified the Bill of Rights. These rights were created for all U.S. citizens and were amplified as the cornerstone of our democratic society. The First Amendment of the U.S. Constitution states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” These words continue to be scrutinized and debated within the public school system. The reason for the debate is two-fold based on a plethora of cases that have been decided for and against schools, but also with the increase in student access to social media and the stability in determining a nexus to the school building with actions that take place away from school.

Of all of the cases that have gone through the court system, no case is more relevant and impactful than *Tinker v. Des Moines* (Waggoner, 2013). This case noted that students do not shed their constitutional rights to freedom of speech or expression as they enter a school. *Tinker* paved the path on the continued deliberation of what is allowed and what can be censored when considering freedom of speech (Alexander & Alexander, 2019). This case brought the test for ‘clear and substantial disruption’ to the forefront of every school when disciplining behaviors. The aftermath of *Tinker* has also shown that schools can and will be held liable for their actions (Reglin, 1992). This specific court case continues to show relevance in school speech litigation over fifty years later.

Establishing a nexus to the school system when student freedom of speech is questioned was put on trial in 2002 when a student brought a large banner that read “Bong Hits 4 Jesus” at an off-campus event. Students in the school were allowed to attend the Olympic Torch Relay

which was supervised by teachers (Alexander & Alexander, 2019). The student who created the sign was suspended and the family challenged the ruling through the court system. The Supreme Court determined that the principal acted swiftly and out of concern from the promotion of illegal drugs as noted on the banner. The Supreme Court ruled in favor of the school district and principal (Russo, 2007).

Most recently the defamation of a school and sports teams were shared through social media and the substantial disruption to school was tested. A student did not make the varsity cheer team and over the weekend she posted two messages to social media, one with explicit language about the school, while the other expressing dissatisfaction with not making the varsity cheer team. The messages began to circulate to students and staff. School administration suspended the student for one year from the cheer squad. The family challenged this decision and the Supreme Court ruled in favor of the student stating the school extended beyond their right to censor student speech (Hudson, 2021).

First Amendment Religion in Schools

The First Amendment also affords the right to the freedom of religion and expressing a person's religion. Within the First Amendment's freedom of religion was established the Establishment Clause that notes "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof" (p.66). The Establishment Clause still holds value in schools, but litigation around the separation of church and state has grown and changes in the application of this law have caused struggles (Heinrich, 2015).

One of the first cases that challenged the separation of church and state was the famous *Everson v. Board of Education* in 1947. It was in this case that the Supreme Court determined that federal funding could be used to provide transportation in parochial schools. It was determined that this use of funds was not a violation of the Establishment Clause, yet this case was important to the First Amendment as it established that schools were specifically connected to the state and church separation (Alexander & Alexander, 2019).

While considering the religious rights of students on school grounds, the case of *Westside Board of Education v. Mergens* set a new standard. A group of students was denied the right to meet on school grounds during non-instructional time. The Supreme Court determined that students have the right to freely exercise their religion on school grounds given there is no substantial disruption to the school (Alexander & Alexander, 2019).

Each of the court cases referenced above were paramount in changing how schools applied the First Amendment. These First Amendment court cases also illustrate how changes in the law have influenced the way that freedoms of speech and religion are applied in schools. As schools have the responsibility to uphold the law, the knowledge and ability from staff within the school to properly censor those rights cannot be overlooked.

Legal Literacy Need Among Administrators

More recently, researchers have begun to determine the impact that taking a school law course can have on teachers and administrators. Just over one hundred students from Indiana University were polled based on the recent completion of a master's level school law course (Decker et al., 2019). These recent students were asked a series of questions based on their

thoughts on legal literacy after taking the class. The results found that 88% of the participants stated they were more confident regarding school law issues after completing the law class. Additionally, 85% of the respondents noted they altered their previous work or actions as a direct result of taking the school law course.

This direct impact on the confidence and impact on decisions made from recent professional development in legal literacy could be the initial data needed to mandate school law training in education. Through previous research, it was determined that almost all administrators have given their teachers legal advice. It is with this connection that “principals should become conscious, informed, and effective school law teachers of their staff” (Militello et al., p. 42, 2009).

As the law changes under the scope of the First Amendment, change must occur to support the legal literacy levels of school administrators. As knowledge levels increase, the confidence levels in the decisions made within those scenarios revolving around the rights of students should increase in suit. This increase in confidence will work in tandem with the self-efficacy levels of those administrators. The network of collaboration established within school districts could be a building block in the support of peer administrators.

Principals are on the front line in each school and are responsible for the supervision of the building. Principals must establish practices that abide by school law while also supporting staff development through training (Militello et al., p. 42, 2009). The need for an increase in legal literacy continues to hold true. It is with this concept that we can support the need for school administrators to evaluate their own legal literacy as they are one of the primary sources

of legal information to the school building (Decker et al., 2019). Through mandated professional development and training, school principals will not only increase their confidence within legal literacy, but they can act as change agents and support professional development within their schools to support increased legal literacy among teachers to benefit all stakeholders of a school.

Methodology

The primary goal of this study is to research the actual legal knowledge of principals specific to the First Amendments rights within a school building compared to their confidence in their knowledge. There has been a larger range of research on teacher understanding compared to their beliefs of the rights of individuals in a school, but there has been limited research when considering the leaders of the school building.

Survey

A survey was created through the Qualtrics platform. See the Appendix for the researcher-created survey questions. All participants received an email requesting participation in the survey to determine their level of understanding and application of the First Amendment rights in a school setting compared to the confidence within each question. Additionally, participants were asked about their years in education, time serving in the role of an administrator, professional development in applying law content in a school, and coursework received. This information allows for the comparison of the level of training administrators were exposed to with both their confidence level and knowledge related to the application of the First Amendment in school. The survey was broken down into the following First Amendment

categories: Student Rights (6 questions), Student Dress Rights (1 question), Teacher Rights (2 questions), Religion in School (5 questions).

Each question was prepared for participants to submit a response in the form of True or False, followed by the administrator rating their response as Completely Confident, Somewhat Confident, or Not Confident. This data will determine the actual legal literacy of school administrators along with their confidence in their understanding. Analysis based on the questions answered correctly, the confidence in the responses submitted, years of experience, amount of professional development, and time since the most recent law class will be determined from this data.

Additionally, two vignettes were created that were more detailed in length and directly mirrored two recent court cases. One court case reference was *Zamecnik v. Indian Prairie SD 204* in which the Seventh Circuit Court of Appeals decided in favor of the student that the school could not prove a substantial disruption and that the student's First Amendment rights were violated. The second court case referenced was *Mahanoy School District v. BL*. This case went to the United States Supreme Court, and it was decided in favor of the student that there was no substantial disruption observed in the case. These vignettes allowed for an optional reasoning section where the respondent could provide any rationale to elaborate on their response to the direct question asked. This data would be used to take a closer look at the reasoning behind specific responses in accordance to the scenario offered.

Procedures

Prior to any requests sent to participants, IRB approval was obtained through Northern Illinois University. Requests were sent via email for Illinois administrators to participate in the survey. Each participant was notified of the benefit and rationale for the survey that was offered. They were also notified that their participation in the survey was voluntary, and their data will help guide research in the field of administrative knowledge and professional development.

Multiple requests were sent to participants to have as much actionable data to analyze. These requests were originally sent through the Illinois Principal Association PrincipAl Connection. Response rates were still much lower than intended so I began to reach out to nearby elementary school district administrators asking for an increase in participation. It was with this outreach that the number of responses quickly rose to a more equitable number that would offer more valuable data. As participants entered the survey link, they were offered a rationale for the research and were notified that their answers would be anonymous through the data collection process. The survey was estimated to take fifteen minutes in total length.

Researcher Role

As a practicing school administrator in Illinois, I have characteristics in common with the survey participants that I requested information from. I am currently in my twelfth year as a building administrator, and I have personally observed the First Amendment rights in schools change with the influx of personal and school-issued electronic devices along with the broad nexus between home and school. The continued evolution of the First Amendment based on rulings in courts over time has made it a necessity to have a foundational understanding of the

application of the First Amendment in schools. As court cases shift rulings in favor of both school districts and students, the determination and application of school law in the school setting becomes more difficult to apply with certainty. As active school leaders there is an expectation that we have definitive answers for staff and parents yet as the law evolves, our understanding and application must also evolve.

The relevance of this became more aware to me after I took a school law course while working toward obtaining my superintendent endorsement. That was my first school law course I had taken in fourteen years, and it was apparent that my legal literacy was not to the level it should have been to give me confidence in my work as a school leader. I was intrigued to view the different correlation results from the administrators from the survey given the knowledge, confidence, years as an administrator, and previous professional development.

Participants

The goal of this dissertation was to survey school administrators in the state of Illinois in order to learn about their understanding, application, and confidence of First Amendment concepts in public school settings. A total of 297 people responded. Demographics information is presented in Table 2.

Table 2: Survey Results – Background Information

1.	School building level currently employed	Grades K-2:	27.5%
		Grades 3-5:	30.9%
		Grades 6-8:	27.3%
		Grades 9-12:	14.3%
2.	Gender	Male:	37.7%
		Female:	62.3%

(Continued on following page)

Table 2 (continued)

3.	Current position	Principal:	66.6%
		Assistant Principal:	22.8%
		Dean:	1%
		Other:	9.6%
4.	School community identification	Suburban:	71.2%
		Rural:	19.2%
		Urban:	9.6%
5.	Highest degree attained	Doctorate:	19.9%
		Masters +30 hours:	48.3%
		Masters:	31.8%
6.	Length of time since most recent law class	0-2 years:	18.2%
		3-5 years:	22.9%
		6-8 years:	17.9%
		9 + years:	41%
7.	Number of school law professional development workshops attended over the last five years	0 workshops:	23.2%
		1 workshop:	28.1%
		2 workshops:	17.2%
		3 + workshops:	31.5%

Note. N=297

Based on the data collected, there was a balanced range of administrators from different building levels. A majority of the respondents were administrators from suburban school districts. Almost 70% of participants had attained at least thirty hours beyond a masters degree, while almost 20% have achieved a doctoral degree. Previous professional development questions were asked on the amount of time since the most recent law class was taken. As the only law class that must be taken in Illinois is when attaining the principal endorsement, there was no surprise that over 40% of the participants had not taken a law class in over nine years. As workshops in Illinois are offered frequently and administrator academies are mandated to be taken at least once per year in Illinois for any practicing administrator, the balanced range of

professional development workshops attended over the last five years is evenly spread based on the possible options offered.

Participants were also asked what methods they receive legal updates or advice to stay current with changes in the application of the law within schools. Responses varied with this question, but a majority of responses included receiving information from the Illinois Principals Association, conferences or workshops attended, district legal counsel, or colleagues. Through these responses, it is apparent that school administrators do have access to methods of improving knowledge or validating application through specific situations.

Data Analysis and Coding

Upon closing the survey window, I began to analyze and code the data. Responses to singular response questions in addition to clusters of particular categories within the First Amendment are shown in tables below. Additionally, confidence levels were also collected from each response received from the participants. Following this, data was collected from the following categories: years of experience as an administrator, length of time since the most recent law class, number of school law professional development workshops attended over the last five years, confidence in the understanding of the phrase ‘substantial disruption’, total correct from the fourteen First Amendment responses, and total confidence levels based on each of the fourteen true-false questions from the survey.

When considering the two vignettes from the survey, each allowed participants the opportunity to provide a rationale for their response to the question. Based on the varying response received, I created different categories that appropriately clustered the responses. The

categories were created by reviewing responses and determining common language used in responses. Two sections of categories were created for each vignette; one section was grouped with responses that were correct and the second section was grouped with incorrect responses. A smaller group from each of the two vignettes requested additional information which would help in determining their responses. This group included participants who originally selected either correctly or incorrectly based on their best judgment prior to offering their response.

Results

A total of 297 participants responded to survey questions about First Amendment rights within a school. Additionally, the group was asked to identify their confidence in understanding what the phrase ‘substantial disruption’ means when applied in a school setting. These two prior knowledge questions generalize the work broken down later in the survey. Results from the first two questions are shown in Table 3.

Table 3: Question Two results

Question	Responses
Please rate your knowledge level of First Amendment rights within a school according to the ranges provided:	I am confident in all decisions First Amendment decisions: 7.4% I am confident in most First Amendment decisions: 84.8% I am not confident in First Amendment decisions: 7.8%
I am confident in my understanding in the phrase: substantial disruption:	Completely agree: 17.9% Somewhat agree: 66.7% Somewhat disagree: 12.9% Completely disagree: 2.5%

Note: N=297

Based on the data received, 92.2% of the participants noted they were confident in all or most their decisions regarding the First Amendment in schools. Additionally, 84.6% of the participants indicated they were completely or somewhat confident in their understanding of the phrase ‘substantial disruption’. It appears there is a higher level of confidence specific to the First Amendment in schools compared to the understanding of the phrase ‘substantial disruption’ even though understanding of that phrase is a key to understanding First Amendment issues in public schools. These two questions were offered at the beginning of the survey and were expanded through multiple questions on the application of the First Amendment in schools. Participants were asked to respond to several True-False questions and then provide their confidence levels within each response. Additionally, the phrase ‘substantial disruption’ became a focus of the two vignettes at the end of the survey.

First Amendment Knowledge and Confidence Analysis

After the initial two questions regarding participant knowledge of the First Amendment and confidence in the phrase ‘substantial disruption’, participants were given fourteen situations where the application of the First Amendment could be challenged in schools. Each question was posed as a true or false question and followed with the respondent assessing their confidence level based on the responses they gave. Results from each of the fourteen questions are shown in Table 4.

Table 4. Pattern of Responses on First Amendment Questions

	Number Who answered	Completely Confident	Some- what Confident	Not at All Confident	Total
Students are protected by the First Amendment while at School.	Incorrect	1	15	4	20
	Correct	152	113	5	270
Schools must protect the First Amendment speech rights of students on social media, even if the speech is considered offensive to the school, staff, or students, yet does not cause a substantial disruption.	Incorrect	17	61	4	82
	Correct	80	117	15	208
Students may wear T-shirts that criticize school policies as long as they don't cause a substantial disruption.	Incorrect	11	36	9	56
	Correct	87	136	10	233
Requiring students to wear uniforms is a violation of their rights.	Incorrect	2	13	4	19
	Correct	137	122	11	270
A school district may not consequence a student for a vulgar rant written in a letter during summer break when that letter is unknowingly taken and brought to school at the beginning of the school year.	Incorrect	39	109	16	164
	Correct	17	85	20	122
A school may not prohibit the possession of student cell phones in a public school.	Incorrect	34	62	7	103
	Correct	71	94	17	182
A school employee may publicly speak out, as a private citizen, against a school district or policies when the criticizing matters are of public concern.	Incorrect	8	28	7	43
	Correct	115	121	9	245
A public-school teacher is constrained by the Bill of Rights.	Incorrect	21	65	22	108
	Correct	48	98	30	176
It is unconstitutional to study the Bible in a public school.	Incorrect	25	48	17	90
	Correct	80	105	10	195
School officials must allow students to distribute controversial religious materials on campus if it does not cause a disruption.	Incorrect	29	101	23	153
	Correct	34	80	22	136
Schools may allow student-led and student-initiated prayer prior to extra-curricular events on school grounds.	Incorrect	5	14	6	25
	Correct	125	124	13	262
A student who objects to reciting the Pledge of Allegiance may also prevent a teacher or other students from reciting the Pledge of Allegiance in their presence.	Incorrect	1	9	1	11
	Correct	150	110	14	274
Students have the right to not participate in state mandated physical education class based on religious beliefs involving mixed gender classes.	Incorrect	16	56	30	102
	Correct	41	107	35	183
Schools do not have to allow students to pray while school is in session and during non-instructional times. Crosstabulation	Incorrect	9	24	4	37
	Correct	123	117	12	252

Based on Table 4 presented above, there are particular First Amendment questions where the participants have high levels of both knowledge and confidence necessary to make appropriate decisions in their everyday work. Results also suggest there are questions within the

First Amendment where there is a lack of knowledge amongst participants based on a high number of incorrect responses.

The ideal data that could be received from any of the fourteen questions above would result in confidence levels matching or being less than the number of correct responses received. This would result in high levels of knowledge matched with high levels of confidence, but also low levels of knowledge matched with lower levels of confidence. These results would show that when knowledge is unknown, confidence is down as well. What the data from Table 3 showed is that complete confidence levels never matched the number of correct responses for any question asked.

Two questions in particular resulted in a majority of incorrect responses. One was question five which stated: A school district may not consequence a student for a vulgar rant written in a letter during summer break when that letter is unknowingly taken and brought to school at the beginning of the school year. This question was created based on the case in 2002, where the Eighth Circuit Court of Appeals ruled in *Doe v. Pulaski* that the school district was within their rights to expel the student as the letter was threatening in nature and even though it was written over the summer. Only 42.7% of the participants answered this question correctly. More interesting is that 90.2% of school administrators were completely or somewhat confident in their response but were incorrect in their response given. This question highlights the issue of participants selecting the incorrect answer yet being confident in their response.

The other question that resulted in a majority of incorrect responses was question ten which stated: School officials must allow students to distribute controversial religious materials

on campus if it does not cause a disruption. This question was created from the case of *Peck v. Upshur County Board of Ed 1998*, which determined that school officials must allow students to distribute controversial religious material on campus as long as it does not cause a substantial disruption. From the results received, only 47.1% of the respondents were correct in their response. Additionally, 85% of the respondents stated they were completely or somewhat confident in their answer.

The question where most participants responded correctly was specific to student-led and student-initiated prayer prior to extra-curricular activities in schools. Coincidentally as the survey was open for participants to submit responses, a Supreme Court case that relates to this question was decided. The case of *Kennedy v. Bremerton School District* involved a coach leading an optional prayer after each football game. The District Court and the Court of Appeals voted in favor of the school district which held that the coach's speech was not protected as he was an authoritative public figure leading the team in a religious manner. The Supreme Court overturned the decision and determined the speech was protected under the First Amendment. If a staff member and government employee is protected to lead an optional prayer after a game, then a student certainly would be protected as well. For this question, 95% of the respondents that were completely or somewhat confident were also correct in their response. It is not certain, but it is possible that this question had a majority of correct responses due to the national increase in awareness of this case as the survey was released.

Of the 14 questions given in the survey, only one question revealed results where there were more participants that were not confident in their response compared to the number that was actually correct. What the data from this survey revealed is that the confidence levels of

participants are much higher than the actual level of knowledge. Specifically, question five which stated: A school district may not consequence a student for a vulgar rant written in a letter during summer break when that letter is unknowingly taken and brought to school at the beginning of the school year. Results showed only 122 correct responses, yet there were 250 participants that were completely or somewhat confident in their response. Additionally, question nine stated: It is unconstitutional to study the Bible in a public school. Results revealed 195 correct responses, yet there were 258 participants that were somewhat or completely confident in their response. This lack of balance is cause for concern when considering the imbalance in legal literacy and confidence levels among participants.

Correlations

Correlations are patterns in data based on the relationship between two variables. Positive correlations result in data when two independent variables increase together. Negative correlations result in data when one data point decreases while the other data point increases. Correlations range from -1 to 1 when comparing the two variables. As correlation values are closer to 1 or -1, the correlation between the two variables is stronger. The closer a correlation is to 0 can be defined as a minimal or no linear relationship between the two variables (Privitera, 2017).

Shown below is the correlation table that was created using SPSS based on the data received from the survey. Six categories were taken into consideration when creating the table including: years of experience as an administrator, length of time since the most recent law class, number of school law professional development workshops attended over the last five years, confidence in their understanding of the phrase ‘substantial disruption’, total correct responses,

and total confidence. Total confidence was generated by adding together all responses in the confidence category of responses. See Table 5 for the correlation between each category.

Table 5. Correlation Table

	1	2	3	4	5	6
1. Years of experience as an administrator.	—	.311**	.286**	.180**	-.153*	0.125
2. Length of time since most recent law class		—	0.001	0.001	-0.032	-0.103
3. Number of school law professional development workshops attended over the last five years.			—	.268**	-0.009	.225**
4. I am confident in my understanding in the phrase: substantial disruption				—	.166**	.443**
5. Total Correct					—	.180**
6. Total Confidence						—

** . Correlation is significant at the 0.01 level (2-tailed).

* . Correlation is significant at the 0.05 level (2-tailed).

Based on Correlation Table 5, relationships amongst variables can be determined given the significance level closer to 1 or -1. Specifically, the greatest significant correlation of $r = .443$ is the confidence in understanding of the phrase ‘substantial disruption’ and the total confidence from the fourteen-question survey, suggesting that participants that were confident in their understanding of the phrase ‘substantial disruption’ were also confident in their answers to the fourteen law questions.

Another pair of categories that illustrated a significant correlation was the years of experience as an administrator and the length of time since the most recent law class ($r = .311$).

This correlation shows that the longer a participant has been in the role of a school administrator the longer it has been since their most recent law class.

While reviewing the years of experience as an administrator and the total correct responses from the fourteen-question survey, the data revealed the greatest negative correlation of $r = -.153$. This tells us that based on the participants from the survey, the longer an administrator has served in their role, the more legal questions that were answered incorrectly. This correlation data supports the need for mandated legal literacy professional development for school administrators.

When considering the number of school law professional development workshops attended over the last five years and the confidence levels in the understanding of the phrase ‘substantial disruption’ and total confidence, significant positive correlations were present at $r = .268$ and $r = .225$ respectively. This result indicates that as the number of professional development opportunities the participant attended increased, so did their confidence in their responses.

Lastly, a positive correlation of $r = .180$ is illustrated from Table 4 when considering the total correct and total confidence from the participants from the survey. This represents that as the participants had answered questions correctly, there were higher levels of confidence in their responses.

Vignette Analysis

The final two questions asked were formulated from two recent court cases that have had an impact on how schools consider disciplining students based on First Amendment actions. This section is unique as it offered an optional area to respond if the administrator chose to elaborate on their initial response. The first vignette had 207 (69.7%) responses out of 297 possible. The second vignette had 205 (69.0%) of 297 possible respondents that offered additional reasoning to their response. Table 6 categorizes the responses received and discusses the theme generalized from each response.

Table 6. Emergent Themes from Responses to Open-ended Questions

Open-Ended Question	Themes	Theme Description
Post-Survey Vignette 1: A student in your school building wears a shirt that is offensive to specific students in the school. Multiple students complain to administration about the shirt that is worn. Administration speaks to the parent regarding the offensive shirt worn and crosses out the parts that are offensive on the shirt. Have the First Amendment rights of the student been violated? Note: N=207	1. No. Parent was contacted and situation discussed - 8.7%	This group stated that since the parent was contacted, that sufficed
	2. No. Substantial disruption justified response - 60.9%	This group stated that the student concerns brought to admin justified a substantial disruption
	3. Yes. No evidence of substantial disruption – 5.8%	This group stated that the student concerns did not qualify as a substantial disruption
	4. Yes. Administration altered shirt – 8.7%	This group stated school administration should not have altered the shirt
	5. Yes. Student has rights – 8.7%	This group stated that the student has rights to free speech that were violated
	6. Needed more information – 7.2%	This group requested additional information

(Continued on following page)

Table 6 (continued)

Post-Survey Vignette 2: A student in your building posts messages on social media using vulgar language about the school and/or staff in the building. These posts circulated to almost three hundred students and were seen by multiple staff members. Several students expressed concern about the inappropriate video. Can the school discipline this student? Note. N=205	1. Yes. School nexus – vulgar language about school/staff – 25.9%	This group stated that the posts directly affected the school and can
	2. Yes. Substantial disruption justified response – 35.6%	This group stated that the posts caused a substantial disruption in the school
	3. No. No evidence of substantial disruption – 9.8%	This group stated that the posts did not qualify as a substantial disruption
	4. No. The incident occurred outside of school – 7.3%	This group stated the incident occurred outside of school and could no received a consequence at school
	5. No. Student has rights – 16.1%	This group stated that the student has rights to free speech that were violated
	6. Needed more information – 5.4%	This group requested additional information

Post-Survey Vignette 1 Results

The correct answer to the first vignette is that the students First Amendment rights were violated. The United States Seventh Circuit Court of Appeals was presented with a case parallel to the vignette question posed in the survey. In the case of *Zamecnik v. Indian Prairie SD 204*, where a student (Heidi Zamecnik) wore a shirt that stated “Be Happy, Not Gay” on the back. Multiple students complained to school administration regarding the shirt, which prompted Heidi to speak with school administration regarding some school students that were offended by the shirt. Heidi’s mother was contacted over the phone regarding the incident. School administration then crossed out the “Not Gay” portion of the shirt. The Seventh Circuit ruled that the shirt was protected under the First Amendment right to free speech and noted that a substantial disruption was not established by the school (Brumneier, 2011).

The most common theme that can be drawn from the collection of responses from the first vignette is that 144 of the 207 (69.6%) responses incorrectly stated that the student’s First

Amendment rights had not been violated. A few select quotes from this group of participants offer insight to their responses. One respondent noted, "'Multiple' students complaining to administration constitutes a disruption to the learning environment; 'specific students' indicates alleged targeting group or subgroup." A second respondent stated, "The specific language on the shirt was offensive to others, causing a substantial disruption to the learning environment." Another participant in this category stated, "I believe that in this instance, since the incident in question happened in a school, the disruption to learning that the words on the shirt caused the offended students trumps the students first amendment right to be offensive."

From those that elaborated on their answer, 48 of the 207 (23.2%) responses correctly stated that the student's First Amendment rights had been violated. The major reasoning categories for these responses determined a flaw with school administration altering the shirt, noted the student has rights, or could not justify a substantial disruption. Specifically, one respondent recollected the court case stating, "The Nequa Valley case that was held against the school for requiring students to change offensive shirts." Another stated, "A shirt simply being 'offensive' does not provide grounds for administrative action. 'Multiple' students cannot be construed to be a meaningful or substantial disruption. If, rather than multiple, we had a significant portion of the population leaving classes to come log complaints in the office, then that could potentially be deemed disruptive to a significant degree." A third respondent noted altering the clothing of the student by stating, "From my understanding, a student is allowed to wear whatever he/she wants. Something that is offensive to one isn't necessarily offensive to all. However, defacing clothing belonging to a student might be the bigger issue. Whether we agree with this or not, it is the reality we are living today."

A majority of the rationale offered that a substantial disruption had occurred given the multiple complaints offered to building administration. This brings about a concern with distinguishing what constitutes a substantial disruption in a school setting. The phrase used in the vignette matches the court case in that multiple students complained yet proving a substantial disruption had occurred seems to be an area that deserves more attention in the professional development of school administration.

Post-Survey Vignette 2 Results

The correct answer to the second vignette is that the school cannot discipline the student. A parallel case was decided in June 2021, where the United State Supreme Court was presented with the case *Mahanoy School District v. B.L.* Brandi Levy was a freshman student in a Pennsylvania high school who had just tried out for varsity cheerleading at her high school but did not make the team. The weekend following Brandi posted two messages to her 250 followers on Snapchat. One post included explicit language about school, softball, and cheer. The other post had the comment “Love how me and [another student] get told we need a year of jv before we make varsity but tha[t] doesn’t matter to anyone else?” (p. 2). These two messages began to circulate to other members of the cheer squad, one of whose mothers was one of the cheer coaches. After a meeting with administration, the school suspended B.L. for one year from the cheer squad. The parents filed suit against the school district stating the school violated her First Amendment speech rights. The district court, Court of Appeals, and United States Supreme

Court all ruled in favor of the student, noting that schools have only some interest in off campus speech when it relates to serious or severe bullying or harassment or threats (Hudson, 2021).

The most common theme that can be drawn from the participants that offered an optional response to their answer is that 126 of the 205 (61.5%) responded incorrectly to the vignette and stated that the school could discipline the student from the scenario provided. A few specific responses help provide a rationale for their selection. One respondent stated, “ The posts were disruptive enough to interrupt school for students and staff.” Another response, which was commonly offered was, “Multiple concerns means it caused a substantial disruption.” Another respondent alluded to the learning environment noting, “The number of affected staff and students seeing and suffering effects makes the speech substantially disruptive to the schools learning environment.”

From the participants who offered an optional response, 68 of the 205 (33.2%) correctly stated that the school could not discipline the student. The primary reasoning categories for their response was that there was no substantial disruption noted, the messages occurred outside of school, and that the student has rights. One respondent identified the rights of students and stated, “First Amendment rights. Just because the other students don't agree with the posts, it doesn't appear to specifically target a group.” Another participant could not find an identified disruption by stating, “I answered false based on the recent court case that ruled in favor of the student. There has to be a nexus and clearly identified disruption.” Another participant noted a lack of a threat in the posts by acknowledging, “As long as there are no threats of violence, etc., the student has the first amendment right to say things like "school sucks, Mr. so & so sucks the most", etc. The student would have had to take it a step farther by asking others to do things or

say things at school.” One final response acknowledged the difficulty laid on schools based on previous court cases. They stated, “Unfortunately, Courts have repeatedly upheld the rights of students to distribute this material whether it is disruptive or not. I don't think that it would be possible to discipline the student although it is worth a serious conversation with the student & parent.”

There were six respondents who referenced the Supreme Court case from 2021 in some manner. Still, a majority of the administrators were incorrect in their response to the second vignette. Given the recent Supreme Court case that has an effect on each school in the nation, it is noteworthy that the majority of responses were not able to link the court case to the vignette offered.

Discussion

The purpose of this study was to determine the knowledge levels of Illinois public school administrators specific to the First Amendment. Additionally, this study assessed the confidence level of participants after answering application questions specific to the First Amendment. Finally, this study analyzed the knowledge and confidence levels from the questions asked in the survey. This study allowed for written responses for participants to elaborate on their reasoning for determining actions that a school could take given two vignettes. These two prompts also led to administrators discussing what constitutes a substantial disruption.

Findings

Findings indicated there is a need for increased knowledge when considering the application of the First Amendment within schools. School administrators are expected to make prompt and accurate decisions in regard to the welfare of their school building, yet there is a discernible lack of legal literacy. When considering the confidence levels of administrators, it can be determined that there is a higher level of confidence in the decisions made compared to the actual accuracy in the decisions made. This scenario leads to confidence in decisions that are incorrect, which place administration in a difficult position. Table 7 illustrates the total number of correct and incorrect responses received from the fourteen-question survey.

Table 7. Fourteen-question Survey Result Totals

Responses	Percentage (Totals)	
Correct	74.8%	(3008/4021)
Incorrect	25.2%	(1013/4021)

Of the fourteen true-false questions initially listed, the average percent of correct responses across all questions was 74.8%. This roughly leads to one out of every four decisions made by school administrators in Illinois specific to the First Amendment being incorrect. These situations have the distinct possibility of leading to litigation for school districts. As school law evolves through different rulings in the court systems, school principals must find methods of staying current with law practices to apply the law appropriately in schools (Gilbert, 2017).

The two vignettes were created to offer additional information to the participants assuming additional information would allow for a more accurate response. Alarming both vignettes resulted in 69.6% and 61.5% of the participants being incorrect in their responses. Through the optional responses received from the participants, it is apparent that the phrase

‘substantial disruption’ varies in how it is interpreted in schools across Illinois. Substantial disruption was the reasoning statement used most commonly for incorrect responses through the two vignettes offered. Coincidentally, as observed initially in the survey, 84.6% of the respondents reflected as being completely or somewhat confident in their understanding of the phrase ‘substantial disruption’. It can be deduced that once again, participants are overly confident in their self-assessment of the phrase ‘substantial disruption’, yet they lack the understanding of the phrase to appropriately apply it in scenarios.

Anticipated results prior to administering the survey were that the strongest correlation obtained would come when analyzing correct answers and confidence. This correlation would justify self-awareness of knowledge from participants. As knowledge increases one would expect confidence to increase and alternatively, as knowledge decreases the confidence level would follow suit. The data collected does not support the anticipated results and for some questions, the confidence level was significantly higher than the number of correct responses received.

The confidence levels of participants could be elevated due to the fact that they have been a practicing administrator for an extended period of time and are justified in their body of work in that role. It is also possible that the confidence levels of building administrators are elevated as they have taken a school law course when they first received the credentials to become a school administrator. Regardless of the reason for an elevated confidence, there is evidence that the knowledge and application level must improve for increased legal literacy. It is with this intention that as legal literacy increases within the specificity of the First Amendment; warranted increases in confidence levels will follow from the increase in knowledge. As legal literacy is a much larger construct than just the First Amendment, an increase in knowledge followed by

appropriate increases in confidence could translate to an increase in legal literacy within other areas of school law outside of the First Amendment. When the self-efficacy of an individual rises along with an increase in knowledge, there is potential for a desire in increased knowledge in other areas connected with legal literacy. This continued professional development growth could lead to a continuous growth cycle.

In 2019, Decker et al. surveyed graduate students from Indiana University who had recently completed a school law course. The data revealed that 88% of the participants noted they were more confident regarding school law issues after completing the course (Decker et al., 2019). The data from Decker et al.'s study showed an improvement in confidence with an increase in knowledge resulting from participating in a school law course. Additional research on the different types of professional development attended and the legal knowledge of participants could determine if the type of professional development has more of an impact on legal literacy. Additionally, research on different constitutional amendments that impact schools could determine if this lack of legal literacy is specific to the First Amendment or holistic and reaching additional areas of school law.

Recommendations for Principals

My research shows that there is a distinct need for improvement of administrative legal literacy in schools. When considering the different categories that the First Amendment covers, each area had identified positives and negatives when viewing the percentage of responses that were correct from the respondents. Specifically, within the First Amendment, mandated

professional development on the identification of what constitutes a substantial disruption is necessary for the sake of clarity for school administrators.

Over forty percent of the participants have not taken a school law class in at least nine years. As the law continues to change each year with different cases determined by the Supreme Court and Circuit Courts, the importance of keeping abreast of changes in school law cannot be underestimated. School administrators are expected to make prompt and correct decisions, yet without the appropriate levels of training, the expected outcomes cannot be met.

It is my recommendation for mandated training in legal literacy for all school administrators routinely to verify all school administrators are staying updated on school law. Strong legal literacy comes from using knowledge through an appropriate application of school law into everyday practice. Legal literacy can also improve through professional development after actively teaching (Summers et al., 2020). School administrators are mandated to take part in a training on the evaluation process at least once every recertification cycle. Adding a layer of legal literacy training through this cycle will enforce the importance of legal literacy and allow for the opportunity to improve legal knowledge. As experience increases with school administrators, it becomes vital to keep the knowledge level high to increase levels of legal literacy.

Future Research Considerations

The phrase legal literacy has been a topic of discussion for the past fifty years in education. At the inception, it revolved around a lack of teacher understanding of school law. It has evolved into a method of school law application over the last fifteen years. Minimal studies

exist on the legal understanding and application of school law in regard to building administrators. One of the largest studies to this point came in 2009 when a 34 question survey on the rights and responsibilities was given to just under five hundred school administrators across multiple states. The results from this survey suggested that school administrators wanted to know the answers to school law questions they were asked (Militello et al., 2009). Based on the knowledge results from this survey, it was apparent that there were gaps in the legal literacy among administrators.

Results from this survey were specific to the First Amendment but showed alarming results regarding the knowledge level of school administrators, who are expected to make prompt and accurate decisions each day. Additional research specific to the topic of substantial disruption might help better understand the disparity from the two vignettes offered in this body of work. As this was the majority reason for selecting the incorrect response, additional training on what constitutes a substantial disruption could help school administrators in their application.

It was apparent that the confidence level of participants was much higher than the knowledge level according to Table 2 above. This would be an area that could be researched more to determine if the confidence levels were much higher due to the amount of time in an administrative role, due to the amount of time since their most recent law class, or if consistent professional development is a leading factor. Some factors are driving the confidence levels in administrators up, yet there is a notable lack of knowledge within each.

Strong legal literacy means that an individual has a high level of knowledge and can successfully apply legal rules to their everyday lives. School administrators with a high level of legal literacy can become a resource for all staff members in a school and can evaluate and change processes to stay within the legal parameters in a school.

There is a notable lack of knowledge and application of the school law from participants. Additionally, there is an increased level of confidence in legal decisions that does not match the knowledge level. It is this disparity among the belief in knowledge and actual knowledge that leads to litigation and wrong practices implemented in schools. This study has determined that a change is necessary to improve the legal literacy of school administrators.

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PART 3

Professional Development Proposal for School Administrators

All Illinois school administrators are required to take a school law course while they are in their administrative preparation coursework. At this time, prospective administrators will review the law and how it is applied in schools. Of course, none of the students are practicing administrators yet given the requirements from the state. This course becomes the only mandate for Illinois administrators specific to school law. There are multiple issues that arise with the current requirements. Learning about school law prior to experiencing relatable scenarios is a disservice to the prospective administrator. Assuming that the application of one court case will fit specifically into a similar scenario that can arise in a school is far-fetched. Secondly, it is not certain that a prospective administrator immediately attains an administrative job, meaning the possibility of a loss of knowledge without any application given their current role is possible. Finally, school law changes each year given new court rulings or mandates given from the state. Without a mandate on knowledge attained by each school administrator, there is no way of establishing an accountability measure across the state.

The purpose of this dissertation was to determine the knowledge and confidence levels specific to the First Amendment among Illinois administrators. Based on the data received, this paper has been created to support professional development specific to the understanding and application of the First Amendment in schools. As is evident from the data collected, knowledge levels from school administrators does not match the confidence levels while self-assessing their

legal literacy. An improvement in legal literacy is needed to better assure schools are operating in compliance with the law.

Overview of Legal Literacy

Legal literacy has become a growing point of discussion amongst educational researchers over the last fifty years. Attaining legal literacy can lead to avoiding costly litigation, making responsible disciplinary decisions, and upholding the rights of the students and teachers within a school building (Gajda, 2008). The discussion of legal literacy began as a way of increasing pre-service teacher awareness on specific court cases pertaining to the operation of a school. It then evolved into a method of minimizing the risk of litigation through a gain of legal knowledge. The current stages of legal literacy include attaining the skills and knowledge necessary to appropriately apply school rules and policies into everyday practice successfully (Decker & Brady, 2016). More recent research looks at the ideology of enhancing legal literacy knowledge after actively serving as a school teacher or administrator to correlate the knowledge gained with previous practice applied (Summers et al., 2020).

Legal literacy among school administrators is essential to effectively operate schools. As the law continues to change, school principals must act as change agents while keeping updated with current law practices to make appropriate legal decisions through daily practice. As litigation continues to increase in the field of education, the need for strong legally literate administrators has never been a more pressing issue in the field of education (Gilbert, 2017).

Connection to Self-Efficacy Theory

The application of self-efficacy theory through professional development goals can improve confidence while increasing knowledge levels. Self-efficacy can be influenced by the effort an individual will put toward a task in addition to how resilient they are when striving toward success in difficult situations (Tschannen-Moran et al., 1998). Stronger levels of self-efficacy can create greater goal achievement levels resulting in an increased motivation to succeed. This self-belief system can then lead to an enhanced ability to learn (Bandura, 1993). It is through this theory of work that by focusing on improving the knowledge and belief in one's abilities, the person can become a more resilient worker who continues to strive to learn and find success. This was evident in a meta-analysis study of over one hundred separate studies on self-efficacy and work-related performance. Results from this meta-analysis shows there was a significant correlation of .38 between self-efficacy and work-related performance (Stajkovic & Luthans, 1998).

As a theory, self-efficacy revolves around four major ways in which self-efficacy can be affected: performance accomplishments, vicarious experiences, verbal persuasion, and physiological or affective states. For the purposes of this dissertation and related professional development, the focus will be on vicarious experiences. Through vicarious learning, an individual may begin to persuade their belief in a task if they see others successfully working on a similar task. Vicarious learning becomes intensified if multiple people with different ability characteristics are accomplishing a task with success (Bandura, 1977). It is through this belief system that having dialogue throughout the proposed professional development is of the utmost importance. Hearing similar situations specific to the First Amendment from peer administrators

from different schools while engaging in conversation about how they have addressed similar situations in their schools is beneficial toward improving self-efficacy through vicarious experiences.

The proposal for professional development is a workshop designed to center discussion on previous court cases specific to the First Amendment and understanding the situation, review how the school reacted, and understand how each of the courts had ruled. There will be reflective discussion on similar situations that have occurred in participant schools. The group will then be presented with multiple vignettes that will require reflective thought and collective discussion on options for proceeding with each situation.

Professional Development Design

Specifically, this professional development will provide an overview on the First Amendment and how it has evolved over the last sixty years given specific court cases and the viewing from the courts. The phrase ‘substantial disruption’ will then be discussed specific to how it is viewed from the courts and recommendations for application in schools.

This professional development will be piloted within my school district with current school administrators to enhance discussion on the First Amendment rights in school. This professional development has the potential to be presented to any school administrator looking to expand their knowledge of the First Amendment as applied in schools.

Subject Matter Experts

Through the writing process of this Professional Development, I took feedback from current school administrators who have attended an optional school law professional development over the last three years. Each was able to provide a framework for the delivery of their professional development. Additionally, input was received based on what they would want to view in a professional development opportunity on school law specific to the First Amendment. Each administrator I spoke to requested information on the phrase ‘substantial disruption’ and how it should be interpreted by school administrators. Additionally, one administrator asked for information on discipline based on social media postings done outside of the school day. They referenced the difficulty in their job specific to knowing when they are able to consequence for social media issues that they are made aware of.

Overview of Professional Development

This professional development workshop will be a one-to-two-hour learning experience for current Illinois administrators looking to improve their legal literacy. The goals for the participants in this professional development workshop are:

- Review data specific to overall knowledge and confidence levels within the First Amendment
- Review landmark court cases specific to the First Amendment and how each has changed how schools address discipline issues specific to the First Amendment
- Learn about what constitutes a substantial disruption
- Offer scenarios of potential disciplinary issues specific to the First Amendment to promote discussion from the group
- Develop best practices when identifying difficult scenarios within school law

This professional development will consist of direct instruction based on findings from the data collected in this dissertation. A transition will occur to group discussion based on scenarios presented and determining factors are identified from administrators on what the potential next steps might be for each scenario.

Professional Development Proposal

A summary of the presentation is provided below.

Overview of the First Amendment and Data Collection

This portion of the professional development plan is to provide participants with a basic overview of the First Amendment when considering speech rights and religion. Participants will then be offered some data that was collected from this dissertation to understand current knowledge levels compared to confidence levels among school administrators.

Participants will then discuss landmark cases that have shaped how the First Amendment is currently applied in schools. Specifically, the following cases will be discussed:

- *Tinker v. Des Moines (1965)*
- *Bethel v. Fraser (1986)*
- *Hazelwood v. Kuhlmeier (1988)*
- *Morse v. Frederick (2007)*
- *B.L. v. Mahanoy (2021)*
- *Everson v. Board of Education (1947)*

- *Lemon v. Kurtzman (1971)*
- *Westside Board of Education v. Mergens (1990)*

Each of these cases will be reviewed with the group and a discussion on how the cases can be applied within schools currently will ensue. The rulings from each of the three levels of the court system will be discussed followed by how the ruling from the highest court had changed how schools operate within the new law. A point of emphasis will be placed on what qualifies an act as a substantial disruption. Based on data collected from this dissertation, it is apparent that additional support on the application of what constitutes a substantial disruption is necessary.

Following the discussions above, vignettes will be offered to test the knowledge gained from each participant on how each would address the disciplinary scenario listed. These vignettes will lead to a discussion on the understanding of substantial disruption in addition to the application of the First Amendment in schools. At the conclusion of the discussions from the group, I will provide explicit suggestions for administrators when diagnosing a difficult situation that requires determination on the infringement of the First Amendment while also considering what constitutes a substantial disruption.

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APPENDIX

RESEARCHER-CREATED SURVEY QUESTIONS

Background Knowledge: The following questions will have multiple choice options to select in the questionnaire.

Highest level of education

- Bachelor
- Masters
- Masters + 30 hours
- Doctorate

Do you consider your school:

- Urban
- Rural
- Suburban

What is your current position?

- Principal
- Assistant/Associate Principal
- Dean
- Other

Years of experience as an administrator? Open response

Length of time since most recent law class

- 0-2 years
- 3-5 years
- 6-8 years
- 9-or more

Number of law professional development attended over the last five years

- 0
- 1
- 2
- 3 or more

Other methods of receiving legal updates or advice? Open response

Please rate your knowledge level of First Amendment rights within a school according to the ranges below:

- I am confident in all decisions made regarding the First Amendment
- I am confident in most decisions made regarding the First Amendment
- I am not confident in the decisions I make regarding the First Amendment.

I am confident in my understanding in the phrase: clear and substantial disruption

- Completely Agree
- Somewhat Agree
- Somewhat Disagree
- Completely Disagree

First Amendment Content Questions: The following questions ask you to rate each statement as *True* or *False*. Additionally, you will be asked to rate your confidence level for each response as: *Completely Confident*, *Somewhat Confident*, or *Not Confident*.

- Students are protected by the First Amendment while at school. **True**
- Schools must protect the First Amendment speech rights of students on social media, even if the speech is considered offensive to the school, staff, or students, yet does not cause a substantial disruption. **True**
- Schools do not have to allow students to pray while school is in session and during non-instructional times. **False**
- Students may wear T-shirts that criticize school policies as long as they don't cause a substantial disruption. **True**
- Requiring students to wear uniforms is a violation of their rights. **False**
- A school district may not consequence a student for a vulgar rant written in a letter during summer break when that letter is unknowingly taken and brought to school at the beginning of the school year. **False**
- A school may not prohibit the possession of student cell phones in a public school. **False**
- A school employee may publicly speak out, as a private citizen, against a school district or policies when the criticizing matters are of public concern. **True**
- A public-school teacher is constrained by the Bill of Rights. **True**
- It is unconstitutional to study the Bible in a public school. **False**
- Schools may allow student-led and student-initiated prayer prior to extra-curricular events on school grounds. **True**
- A student who objects to reciting the Pledge of Allegiance may also prevent a teacher or other students from reciting the Pledge of Allegiance in their presence. **False**
- Students have the right to not participate in state mandated physical education class based on religious beliefs involving mixed gender classes. **True**

First Amendment Vignette Questions:

The following question is based on a discipline scenario. Please respond True or False to the question. If you would like to provide additional information based on your response, you are welcome to add it in the 'Optional' box below.

1. A student in your school building wears a shirt that is offensive to specific students in the school. Multiple students complain to administration about the shirt that is worn. Administration speaks to the parent regarding the offensive shirt worn and crosses out the parts that are offensive on the shirt. Have the First Amendment rights of the student been violated? **Yes/True**

(Optional Response): What was your rationale for your answer of True or False?

2. A student in your building posts messages on social media using vulgar language about the school and/or staff in the building. These posts circulated to almost three hundred students and were seen by multiple staff members. Several students expressed concern about the inappropriate video. Can a school discipline this student? **No/False**

(Optional Response): What was your rationale for your answer of True or False?