

**University of North Texas at Dallas**  
**Summer 2013**  
**SYLLABUS**

<b>EDAD 5390</b>			
<b>Campus Level School Law - 3 Hrs</b>			
<b>Department of Educational Administration</b>			<b>Division of Teacher Education and Human Services</b>
<b>Instructor Name:</b>	Dr. Pat Franklin		
<b>Office Location:</b>			
<b>Office Phone:</b>	972-968-6517		
<b>Email Address:</b>	franklinpa@cfbisd.edu		
<b>Office Hours:</b>	Before class by appointment		
<b>Classroom Location:</b>	DAL1 Room 204		
<b>Class Meeting Days &amp; Times:</b>	Tuesday, Wednesday, Thursday 7:00 p.m. – 9:50 p.m.		
<b>Course Catalog Description:</b>	This course is intended to provide an understanding of pertinent constitutional, statutory, administrative, and case law related to the operation of Texas public schools. Content includes the legal framework within which schooling takes place and how it directs and influences the decisions that campus-based administrators make. Focus is on how the leader's daily decisions are shaped by ongoing legal issues and the intent of policy or regulatory assurances.		
<b>Required Text:</b>	<b>American Public School Law</b> by Alexander and Alexander. Publisher: Thomason West, 2012, 8 <sup>th</sup> Edition.		
<b>Recommended Text:</b>	<b>The Educator's Guide to Texas School Law</b> by Walsh, Kemerer and Maniotis. Publisher: University of Texas Press, 2010, 7 <sup>th</sup> Edition.		
<b>Learning Resources:</b>	UNT Dallas Library: <a href="http://www.unt.edu/unt-dallas/library.htm">http://www.unt.edu/unt-dallas/library.htm</a>  UNT Dallas Bookstore: <a href="http://www.unt.edu/unt-dallas/bookstore.htm">http://www.unt.edu/unt-dallas/bookstore.htm</a>  U.S. Constitution Online: <a href="http://www.usconstitution.net/const.html">http://www.usconstitution.net/const.html</a>  Lexis-Nexus Texas Constitution and Statutes: <a href="http://www.statutes.legis.state.tx.us/">http://www.statutes.legis.state.tx.us/</a>  Lexis-Nexis Free Case Law: <a href="http://www.lexisone.com/lx1/caselaw/freecaselaw?searchType=keywordSearch&amp;fclSearch=brown&amp;action=FCLSearchCaseByTerms&amp;pageLimit=10&amp;format=CITE&amp;pageNumber=1&amp;sourceID=302&amp;citation=&amp;searchTerm=brown&amp;sourceCandidate=selectSource&amp;sourceType=Federal&amp;sourceCandidate=302&amp;relativeDate=1-NONE&amp;fromDate=&amp;toDate=&amp;party=&amp;judge=&amp;counsel">http://www.lexisone.com/lx1/caselaw/freecaselaw?searchType=keywordSearch&amp;fclSearch=brown&amp;action=FCLSearchCaseByTerms&amp;pageLimit=10&amp;format=CITE&amp;pageNumber=1&amp;sourceID=302&amp;citation=&amp;searchTerm=brown&amp;sourceCandidate=selectSource&amp;sourceType=Federal&amp;sourceCandidate=302&amp;relativeDate=1-NONE&amp;fromDate=&amp;toDate=&amp;party=&amp;judge=&amp;counsel</a>		
<b>Course Objectives:</b>	At the conclusion of this course, students will:  1) Understand local, state, and federal laws 2) Recognize key education-related provisions of the U.S. Constitution, federal statutes, Texas Constitution and statutes, including provisions of the Texas Education Code. 3) Learn Key court rulings that establish school law parameters at the campus level. 4) Understand how Board policies and administrative regulations/directives translate the		

	<p>law into real work requirements and application.</p> <p>5) Develop a rudimentary knowledge of basic legal terminology and the court system so administrators can decipher legal materials and effectively participate in basic school law related discussions, workshops and conferences.</p>
<b>Texas Principal Standards and Competencies</b>	<p>This course supports the following competencies:</p> <p>Competency 002: The principal knows how to communicate and collaborate with all members of the school community, respond to diverse interests and needs, and mobilize resources to promote student success.</p> <ul style="list-style-type: none"> <li>• Demonstrate effective communication through oral, written, auditory, and nonverbal expression</li> <li>• Use effective conflict management and group consensus building skills.</li> <li>• Develop and implement strategies for effective internal and external communications</li> <li>• Respond to pertinent political, social, and economic issues that exist in the internal and external environment.</li> </ul> <p>Competency 003: The principal knows how to act with integrity, fairness, and in an ethical and legal manner.</p> <ul style="list-style-type: none"> <li>• Model and promote the highest standard of conduct, ethical principles, and integrity in decision making, actions, and behaviors</li> <li>• Implement policies and procedures that promote professional educator compliance with The Code of Ethics and Standard Practices for Texas Educators</li> <li>• Apply knowledge of ethical issues affecting education</li> <li>• Apply legal guidelines to protect the rights of students and staff and to improve learning opportunities</li> <li>• Apply laws, policies, and procedures in a fair and reasonable manner</li> <li>• Articulate the importance of education in a free democratic society</li> <li>• Serve as an advocate for all children</li> </ul> <p>Competency 006: The principal knows how to implement a staff evaluation and development system to improve the performance of all staff members, select and implement appropriate models for supervision and staff development, and apply the legal requirements for personnel management.</p> <ul style="list-style-type: none"> <li>• Implement effective, legal, and appropriate strategies for the recruitment, selection, assignment, and induction of campus staff.</li> </ul> <p>Competency 007: The principal knows how to apply organizational, decision-making, and problem-solving skills to ensure an effective learning environment.</p> <ul style="list-style-type: none"> <li>• Frame, analyze, and creatively resolve campus problems using effective problem-solving techniques to make timely, high-quality decisions.</li> </ul> <p>Competency 009: The principal know how to apply principles of leadership and management t the campus physical plan and support system to ensure a safe and effective learning environment.</p> <ul style="list-style-type: none"> <li>• Apply local, state, and federal laws and policies to support sound decision making related to school programs and operations.</li> </ul>
<b>Instructional Method:</b>	<p>Instruction will include reading assigned text, selected cases from and other professional literature to highlight significant points. Students will be asked to write briefs of cases prior to class meetings. Briefs will be used for student presentation of cases. Students are expected to actively participate in the case method of teaching (discussion teaching) to elucidate the legal principals, practical application and situational settings discussions to illustrate aspects of the law, Students are expected to read the assigned material for this course thoroughly and carefully. Lecture, class discussions, student presentation, case analysis and exam(s) will be included in the instruction for this course.</p>
<b>Reading and Presentation Requirement:</b>	<p>This course requires a great deal of reading. In general, 2-4 cases per topic will be highlighted as part of the study of school law. Each student will also be responsible for providing several briefings to the class on the case(s) or topic. Each briefing is expected to be a highlight of the key information not a reading of everything on the topic or case. The summary of case law in American Public School Law and The Educator’s Guide are great resources. Students are encouraged to use a variety of presentation methods as part of the briefing with an electronic copy provided to the instructor and at minimum a hard copy to classmates.</p>
<b>Brief (Writing)</b>	<p>As an aid to case analysis, students will be asked to prepare short briefs of cases. Each</p>

<b>Requirements:</b>	brief must include: (1) citation, (2) the issue or issues, (3) the facts, (4) the holding, and (5) the rationale.
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**Course Outline:** This schedule is subject to change by the instructor. Any changes to this schedule will be communicated by the instructor in class.

**Calendar & Assignments**

**Lecture and Discussion Topics**

<p>Class 1 - 6/4</p> <p><b>Discuss in class Chapter 1</b></p>	<ul style="list-style-type: none"> <li>A. Introduction</li> <li>B. Discuss Syllabus</li> <li>C. Class expectations and overview of course</li> <li>D. Cases <ul style="list-style-type: none"> <li>1. Parts of a Case</li> <li>2. Writing a brief</li> </ul> </li> <li>E. Introduction to Legal System</li> <li>F. Nature of Public School Law</li> <li>G. Sources of Law (Constitution, Statutes, Judicial Decisions, Admin. Law)</li> <li>H. Powers and Functions of Courts</li> <li>I. American Court System (State and Federal)</li> <li>J. Finding the law</li> </ul>
<p>Class 2 – 6/5</p> <p><b>Read for class - Recommended text: The Educator’s Guide to Texas School Law Chapter 1</b></p>	<p><b><u>Overview of Texas Education Law</u></b></p> <ul style="list-style-type: none"> <li>A. Key Components of Texas Education Law <ul style="list-style-type: none"> <li>1. Constitutional Law</li> <li>2. Statutory Law</li> <li>3. Administrative Law</li> <li>4. Judicial Law</li> </ul> </li> <li>B. State-level governance <ul style="list-style-type: none"> <li>1. Texas Legislature</li> <li>2. State Board of Education</li> <li>3. Texas Education Agency</li> </ul> </li> <li>C. State Board of Education <ul style="list-style-type: none"> <li>1. Functions</li> <li>2. Composition</li> </ul> </li> <li>D. Basic Functions of Texas Education Agency <ul style="list-style-type: none"> <li>1. Commissioner of Education</li> <li>2. Regional Service Centers</li> </ul> </li> <li>E. Local Boards of Education <ul style="list-style-type: none"> <li>1. Powers and duties</li> <li>2. Waivers</li> <li>3. District-level decision making</li> <li>4. Campus-based decision making</li> </ul> </li> <li>F. Charter Schools <ul style="list-style-type: none"> <li>1. Home-rule charters</li> <li>2. Campus charters</li> <li>3. Open enrollment charters</li> </ul> </li> <li>G. Administrators <ul style="list-style-type: none"> <li>1. Superintendents</li> <li>2. Principals</li> </ul> </li> <li>H. Important Federal Statutes</li> <li>I. Texas State Courts</li> </ul>
<p>Class 3 – 6/6</p> <p><b>Read for class Chapter 3 and 4</b></p>	<p><b><u>Role of the Federal Government in Education Law</u></b></p> <ul style="list-style-type: none"> <li>A. Sources of Federal Law</li> <li>B. Structural Provisions in the Constitution</li> <li>C. Rights Provisions in the Constitution</li> </ul> <p><b><u>Selected Key Cases:</u></b></p>

<p><b>Write Briefs for Selected Key Cases</b></p>	<ul style="list-style-type: none"> <li>• Arlington Central School District Board of Education v. Murphy</li> <li>• United States v. Lopez,</li> <li>• Sheppard v. Godwin</li> <li>• San Antonio ISD v. Rodriquez</li> </ul> <p><b><u>Governance of Public Schools</u></b></p> <p>A. Education as a State Function  B. Limits of State Control  C. Local Control  D. Authority of Interscholastic Organizations  E. School Board Meetings  F. Open Meetings and Public Records Laws</p>
<p>Class 4 – 6/11</p> <p><b>Read for class Chapter 5</b></p> <p><b>Write Briefs for Selected Key Cases</b></p>	<p><b><u>Church and State</u></b></p> <p>A. The Public School and Religion  B. Funding of Religious Schools  C. The Establishment Clause and The Lemon Test  D. Vouchers  E. Release Time for Religious Instruction  F. Volitional Exercises</p> <p><b><u>Selected Key Cases:</u></b></p> <ul style="list-style-type: none"> <li>• Everson v. Board of Education</li> <li>• Board of Education of Central School District No. 1 v. Allen</li> <li>• Lemon v. Kurtzman</li> <li>• Mueller v. Allen</li> <li>• Zelman v. Simmons-Harris</li> <li>• Abington Township v. Schempp and Murray v. Curlett</li> </ul>
<p>Class 5 – 6/12</p> <p><b>Read for class Chapter 11</b></p> <p><b>Write Briefs for Selected Key Cases</b></p>	<p><b><u>Rights of Students with Disabilities</u></b></p> <p>A. Key Texas Special Education Jargon  B. Education for All Handicapped Children Act (EAHCA)  C. IDEA  D. FAPE  E. IEP Team (ARD Committee)  F. Least Restrictive Environment  G. Placement in Private School  H. Discipline and the “Stay-Put” Provision  I. Section 504 of the Rehabilitation Act of 1973</p> <p><b><u>Selected Key Cases:</u></b></p> <ul style="list-style-type: none"> <li>• Schaeffer v. Weast</li> <li>• Beth v. Van Clay</li> <li>• Florence County School District Four v. Carter</li> <li>• Honig v. Doe</li> <li>• Martinez v. School Board of Hillsborough County</li> </ul>
<p>Class 6 – 6/13</p> <p><b>Read for class Chapter 15</b></p> <p><b>Write Briefs for Selected Key Cases</b></p>	<p><b><u>Certification, Contracts, and Tenure/Due Process Rights of Teachers</u></b></p> <p>A. Certification, Contracts, and Tenure</p> <ol style="list-style-type: none"> <li>1. Teacher Certification</li> <li>2. Teacher Contracts</li> <li>3. Standard Contract</li> <li>4. Tenure</li> <li>5. Grounds for Termination of Tenured Teacher</li> </ol> <p>B. Due Process Rights</p> <ol style="list-style-type: none"> <li>6. Four Aspects of Due Process</li> </ol> <p><b><u>Selected Key Cases:</u></b></p> <ul style="list-style-type: none"> <li>• Feldhusen v. Beach Public School District No. 3</li> <li>• Scheer v. Independent School District No. 1-26 of Ottawa County</li> </ul>

	<ul style="list-style-type: none"> <li>• Collins v. Faith School District No. 46-2</li> <li>• Board of Directors of the Lawton-Bronson v. Davies</li> <li>• State v. Project Principle, Inc.</li> </ul>
<p>6/18/2013</p> <p><b>Read for class - Recommended text: The Educator's Guide to Texas School Law Chapter 4</b></p>	<p><b><u>Teacher Employment in Texas</u></b></p> <p>A. Staff Selection</p> <p>B. Types of Employment Arrangements</p> <ol style="list-style-type: none"> <li>1. At-Will Employment</li> <li>2. Non-Chapter 21 Contracts</li> <li>3. Probationary Contracts</li> <li>4. Term Contracts</li> <li>5. Continuing Contracts</li> <li>6. Retire/Rehire</li> </ol> <p>C. Teacher Appraisal</p> <p>D. Ending Employment Relationship in Texas (currently under revision due to changes during the 82<sup>nd</sup> Legislative Session)</p> <ol style="list-style-type: none"> <li>1. At-Will</li> <li>2. Non-Chapter 21</li> <li>3. Probationary Contracts</li> <li>4. Term Contracts</li> </ol> <p>E. Reassignment</p> <p>F. Grievances and the Role of Employment Organizations</p>
Class 7 – 6/19	<b>Mid-Semester Examination</b>
<p>Class 8 – 6/20</p> <p><b>Read for class - Recommended text: The Educator's Guide to Texas School Law Chapter 9</b></p>	<p><b><u>Privacy and Expression Rights</u></b></p> <p>A. Texas Open Meetings Act</p> <p>B. Texas Public Information Act</p> <p>C. Educator Privacy Rights</p> <p>D. Student Privacy Rights</p> <p>E. Educator Rights of Expression</p> <p>F. Student Rights of Expression</p>
<p>Class 9 – 6/25</p> <p><b>Read for class Chapter 6</b></p> <p><b>Write Briefs for Selected Key Cases</b></p>	<p><b><u>School Attendance</u></b></p> <p>A. Compulsory Attendance</p> <p>B. Residence and Domicile</p> <p>C. Immigration and Assimilation</p> <p>D. Homeless Children</p> <p>E. Home Schooling</p> <p>F. Other Reasons for Non-Attendance</p> <p><u>Selected Key Cases:</u></p> <ul style="list-style-type: none"> <li>• Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary</li> <li>• Pylar v. Doe (Immigration)</li> <li>• Wisconsin v. Yoder (Homeless Children)</li> <li>• Jones v. West Virginia State Board of Education (Home School)</li> <li>• Workman v. Mingo County Schools (Vaccination)</li> </ul>
<p>Class 10 – 6/26</p> <p><b>Read for class - Recommended text: The Educator's Guide to Texas School Law Chapter 8</b></p>	<p><b><u>Student Discipline</u></b></p> <p>A. Constitutional Concerns: Due Process</p> <p>B. Other Constitutional Issues</p> <p>C. Chapter 37: An Overview</p> <ol style="list-style-type: none"> <li>1. Student Code of Conduct</li> <li>2. Teacher-Initiated Removal</li> <li>3. Suspension</li> <li>4. Removal to a DAEP</li> </ol> <p>C. Expulsion</p>

	D. Emergency Actions E. Interaction with Law Enforcement F. Corporal Punishment G. Suspension from Extracurricular Activities
Class 11 - 6/26	<b>Development of Brief Reports</b>
Class 12 – 6/27  <b>Read for class Chapter 9</b>	<b><u>Continuation of Student Discipline (Search and Seizure)</u></b> A. Exclusionary Rule B. Public School Searches <ul style="list-style-type: none"> <li>• Reasonable Suspicion</li> <li>• T.L.O. and Strip Searches</li> <li>• Special Needs and Suspicionless Searches</li> <li>• Canine Searches</li> <li>• Metal Detector Searches</li> <li>• Liability for Illegal Searches</li> </ul>
Class 13 – 7/2  <b>Read for class Chapter 7</b>	<b><u>Instructional Program</u></b> A. Judicial Deference to School Officials B. Curriculum C. Health Education D. Evolution versus Creationism E. Student Testing and Promotion F. Grading and Academic Requirements G. Bilingual Education Programs  <u>Selected Key Cases:</u> <ul style="list-style-type: none"> <li>• Meyer v. Nebraska</li> <li>• Immediato v. Rye Neck School District</li> <li>• Boring v. Buncombe County Board of Education</li> <li>• Board of Education Island Trees Union Free SD No. 26 v. Pico</li> <li>• Campbell v. Board of Education of the town of new Milford</li> <li>• Lau v. Nichols</li> </ul>
Class 14 – 7/3	<b>Brief Reports and Course Review</b>
Class 15 – 7/3	<b>Final Examination</b>

### **Course Evaluation Methods**

This course will utilize the following instruments to determine student grades and proficiency of the learning outcomes for the course. *(provide any necessary details of the instruments – examples given)*

**Exams** – *written tests designed to measure knowledge of presented course material*

**Assignments** – *written assignments designed to supplement and reinforce course material*

**Projects** – *web development assignments designed to measure ability to apply presented course material*

**Class Participation** – *daily attendance and participation in class discussions*

**Etc.**

#### **Grading Matrix: *(sample given)***

<b>Instrument</b>	<b>Value (points or percentages)</b>	<b>Total</b>
Assignments	8 assignments at 10 points each	80
Research Papers	2 papers at 20 points each	40
Exercises	4 exercises at 15 points each	60
Quizzes	2 quizzes at 20 points each	40

Projects	2 projects at 30 points each	60
Mid Term Exam	35	35
Class Participation/ Discussion	35	35
Final Exam	50	50
<b>Total:</b>		<b>400</b>

**Grade Determination:**

- A = 400 – 360 pts; i.e. 90% or better
- B = 320 – 359 pts; i.e. 80 – 89 %
- C = 280 – 319 pts; i.e. 70 – 79 %
- D = 240 – 279 pts; i.e. 60 – 69 %
- F = 239 pts or below; i.e. less than 60%

**University Policies and Procedures**

**Students with Disabilities (ADA Compliance):**

*The University of North Texas Dallas is on record as being committed to both the spirit and letter of federal equal opportunity legislation; reference Public Law 92-112 – The Rehabilitation Act of 1973 as amended. With the passage of new federal legislation entitled Americans with Disabilities Act (ADA), pursuant to section 504 of the Rehabilitation Act, there is renewed focus on providing this population with the same opportunities enjoyed by all citizens.*

As a faculty member, I am required by law to provide "reasonable accommodations" to students with disabilities, so as not to discriminate on the basis of that disability. Student responsibility primarily rests with informing faculty of their need for accommodation and in providing authorized documentation through designated administrative channels. For more information, you may visit the Student Life Office, Suite 200, Building 2 or call 972-780-3632.

The Department of Teacher Education and Administration is committed to full academic access for all qualified students, including those with disabilities. In keeping with this commitment and in order to facilitate equality of educational access, faculty members in the department will make reasonable accommodations for qualified students with a disability, such as appropriate adjustments to the classroom environment and the teaching, testing, or learning methodologies when doing so does not fundamentally alter the course.

If you have a disability, it is your responsibility to obtain verifying information from the Office of Student Life and to inform me of your need for an accommodation. Grades assigned before an accommodation is provided will not be changed. Information about how to obtain academic accommodations can be found in UNTD Policy 7.004, [Disability Accommodations for Students](#), and by visiting Student Life, building 2, Suite 200. 972-780-3632, [studentlife@unt.edu](mailto:studentlife@unt.edu).

**Student Evaluation of Teaching Effectiveness Policy:**

*The Student Evaluation of Teaching Effectiveness (SETE) is a requirement for all organized classes at UNT. This short survey will be made available to you at the end of the semester, providing you a chance to comment on how this class is taught. I am very interested in the feedback I get from students, as I work to continually improve my teaching. I consider the SETE to be an important part of your participation in this class.*

**Exam Policy:**

*Exams should be taken as scheduled. No makeup examinations will be allowed except for documented emergencies (See Student Handbook).*

**Academic Integrity:**

*Academic integrity is a hallmark of higher education. You are expected to abide by the University's code of conduct and Academic Dishonesty policy. Any person suspected of academic dishonesty (i.e., cheating or plagiarism) will be handled in accordance with the University's policies and procedures. Refer to the Student Code of Conduct at [http://www.unt.edu/csrr/student\\_conduct/index.html](http://www.unt.edu/csrr/student_conduct/index.html) for complete provisions of this code.*

**Bad Weather Policy:**

*On those days that present severe weather and driving conditions, a decision may be made to close the campus. In case of inclement weather, call UNT Dallas Campuses main voicemail number (972) 780-3600 or search postings on the*

campus website [www.unt.edu/dallas](http://www.unt.edu/dallas). Students are encouraged to update their Eagle Alert contact information, so they will receive this information automatically.

**Attendance and Participation Policy:**

*The University attendance policy is in effect for this course. Class attendance and participation is expected because the class is designed as a shared learning experience and because essential information not in the textbook will be discussed in class. The dynamic and intensive nature of this course makes it impossible for students to make-up or to receive credit for missed classes. Attendance and participation in all class meetings is essential to the integration of course material and your ability to demonstrate proficiency. Students are responsible to notify the instructor if they are missing class and for what reason. Students are also responsible to make up any work covered in class. It is recommended that each student coordinate with a student colleague to obtain a copy of the class notes, if they are absent.*

**Diversity/Tolerance Policy:**

*Students are encouraged to contribute their perspectives and insights to class discussions. However, offensive & inappropriate language (swearing) and remarks offensive to others of particular nationalities, ethnic groups, sexual preferences, religious groups, genders, or other ascribed statuses will not be tolerated. Disruptions which violate the Code of Student Conduct will be referred to the Center for Student Rights and Responsibilities as the instructor deems appropriate.*



## Parts of a Case

**Citation:** Name of the plaintiffs and defendants and where the case can be found, i.e. *Chappel v. Franklin Pierce School District*, 426 P.2d 471 (Wash. 1967). Decided by the Supreme Court of Washington, April 6, 1967.

**Resume of the Case:** Action taken, relief sought, lower court's findings, holdings of the present court, and final action taken.

**Headnotes:** Key Numbers beside each headnote indicate subject or issue dealt with. There may be from one to several headnotes that tell what the court decided. For example, Civil Rights Key Note 3; Constitutional Law, 211; Constitutional Law 224 are sex discrimination cases; Schools 172; et cetera.

**Of Counsel:** Attorneys for the parties are then listed. These are the attorneys of record.

**Factual Materials:** Following the list of attorneys of record, the court goes into the facts of the case. Ordinarily, these are not at issue, since on appeal the question is whether some error in law has occurred; that is, did the appellant receive a fair trial? Some facts are important as to the resolution of the case, and some are not. The appellate court does not question the facts, but searches for error in the law.

**Name of Judge:** The name of the judge who wrote the majority opinion will appear at the beginning of the factual material.

**Members in Text:** Each of the footnotes is then taken up by number and reasoning given. Match each numbered portion of the text of the decision with its corresponding headnote.

**Body of the Decision:** There may be as many as 130 pages, but some cases are as short as one or two pages.

**Concurring Opinions:** A majority judge gives his or her reasons for "concurring" with the decision of the majority, which may be slightly different from those of the majority.

**Dissenting Opinions:** If any, these will tell why that particular judge was unable to concur in the majority's conclusion, and his or her reasons. Sometimes the dissents exceed the majority's opinions in length, as those of the four Chief Justices in the *Rodriguez* case.

**Finding of the Court:** Affirmed; reversed; affirmed in part; reversed in part; reversed and remanded for a new trial on the merits.

## Sample Brief Form

**Citation:** *Simms v. School District No. 1, Multnomah Co.*, 508 P.2d 236 (Ore. 1973)

**Topic:** Assault and Battery

**Relief Sought:** Students brought action to recover damages against school district and one of its teachers for assault and battery.

**Issue(s):** (1) Did teacher wantonly shove student into door? (2) May teacher use reasonable force to move a disruptive child from the classroom? (3) Did the trial judge err in instructions to the jury?

**Facts:** Plaintiff, Richard Simms, 14, brought action for assault and battery against district and a teacher, Martin Weitz, alleging that he was wantonly shoved into a door and glass window, breaking the window and injuring his arm. Defendant denied the allegations and said that while plaintiff was being removed from the classroom by reasonable force, the incident occurred, but that it was within the teacher's rights to do so. Plaintiff demurred to teacher's defense; court overruled the demurrer. Case went to a jury which returned a verdict in favor of both defendants. Plaintiff appealed. Plaintiff was enrolled in a "model" school for disadvantaged, and had a poor record.

**Finding of the Trial Court:** For defendant school district and teacher.

**Finding of the Appellate Court:** Court of Appeals affirmed the court below.

**Reasoning:** Teachers may use reasonable force to remove a child from the classroom if he is a disruptive element therein. The district's regulation on corporal punishment read, in part: "Except in the event of forcible and physical resistance to the teacher's authority, corporal punishment shall be administered only after the teacher has procured in advance the approval of the principal." The issue of whether or not the student offered "forcible and physical resistance to the teacher's authority" was for the jury to decide. The judge told the jury that it was for it to decide whether or not the teacher used reasonable force within the meaning of the regulation. A teacher stands *in loco parentis* to the child, and shares the parents' right to obtain obedience to reasonable demands by force. In *Ware v. Estes*, 328 F.Supp. 657 (TX 1971), affirmed, 458 F.2d 1360 (1972) the federal courts held that corporal punishment is not "cruel and inhuman treatment" under the Eighth Amendment. We hold that the child has no constitutional grounds to object to corporal punishment so long as it is reasonable, properly administered and so as not to cause harm, and is legally authorized. Nor do we consider as inadmissible the teacher's written report prepared on the day of the act for his principal on grounds that it is self-serving. The teacher was subject to cross examination regarding all aspects of the report, including its authenticity and reliability and accuracy. Clearly the court did not abuse its discretion in this case.