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# *Preface and Advisement*

In previous editions of this book, we stated that

*Once upon a time there was order in our schools and change occurred so benevolently that it was called “progress.” There was a place and a time for everything. There were authorities, too. The principal spoke without hesitation about what was appropriate behavior. Dad and Mom told their children to go to school and “mind the teacher,” and students listened and learned and behaved themselves. Teachers and school administrators worked in harmony with each other. Parents left educational decisions up to the schools. The courts rarely got involved with schools and, when they were asked to make a decision, they tended to side with schools.*

*Then something happened. Some say parents failed in their responsibility. Some say schools lost their direction and control. Some say society became too permissive. Some say the courts started to get involved where they did not belong. (p. xiii)*

We could not say then, and we still cannot say definitively what happened (societal changes, court rulings, etc.), but we know that much that was nailed down suddenly came loose. We know that the job of school principal is vastly different today from what it was twenty years ago, ten years ago—or even yesterday. Today’s principals grapple with a sea of conflicting demands from their school boards, central office administrators, students, teachers, parents, community pressure groups and various political agendas. Principals’ jobs are further complicated by the seemingly endless and often contradictory statutes, court decisions, and attorneys’ general opinions that directly affect the operation of their schools. As a result of these pressures, principals often feel insecure and, at times, powerless when it comes to balancing the pressure to do something, on the one hand, and legal restraints, on the other. Today’s principals face an additional dilemma as they address the task of balancing the need for order with the need to respect the legal rights of students, teachers, and parents.

Although a number of good books are available on education law, few focus directly on the specific needs of the principal. Previous editions of *The Principal's Quick-Reference Guide* have been written exclusively for preservice and inservice principals, vice principals, and other building-level administrators, to provide basic information on the current status of law and site-based risk management as it relates to the legal rights and responsibilities inherent in managing and leading schools. This current edition follows the same blueprint and has the same essential goals as previous editions.

*What's new in the third edition?* Keeping up with the rapidly changing phenomenon called “school law” is a difficult task. This edition not only brings the reader up to date on the major tenets of school law but introduces a number of new areas of risk management that educators need to know, understand, and address in everyday practice. Each chapter has been updated, when appropriate, with current case law and court rulings to provide educators with the legal knowledge they need for exemplary practice—for example,

- Updated web resources
- An invitation to think about and discuss the “ethic of justice”
- Employee evaluation linked to student achievement
- Student athletes with disabilities
- Participation fees
- Student and teacher use of social media
- The concept of the “Heckler’s Veto”
- Internet privacy issues
- School-sponsored Internet and emerging technology
- The use of YouTube

In addition, a complete chapter has been added to this edition regarding the principal’s responsibilities in dealing with cell phones, the Internet, electronic devices, cyber-bullying and other emerging cyber issues. The chapter includes such issues as

- Students’ right to possess electronic devices and school districts’ ability to search for and within electronic devices
- Discipline issues for acts involving the use of technology on and off school grounds (including freedom of speech issues)
- Student misconduct using technology to send sexual material
- Student misconduct using technology to make threats
- Cyber-bullying and harassment
- Using technology to track students and/or school property

Nearly all school administrators have had a course in school law. They know that the law affects almost every facet of education. However, most school law courses

end without helping the principal translate school law and policy into education procedures and practice. This book helps close that gap and places principals in a better position to maintain a safe school and to be proactive in litigation avoidance and conflict resolution.

Most legal actions brought against school principals are not based on areas of education leadership or knowledge of curriculum. Principals who find themselves defendants in court often got there because they did not know the relevant law or did not practice sound management based on an understanding of existing court decisions. This third edition continues to help principals understand and provide a stronger foundation for their day-to-day management of risk.

As we did in previous editions, we designed this book to be a desk reference in which school administrators can quickly find and identify important legal points to consider during decision-making processes when such decisions may have legal consequences. To further assist in that process, we continue to use straightforward, non-technical language and follow a standard format in presenting pertinent information. This edition retains the reader-friendly format we introduced in previous editions and continues to demonstrate the inevitable introduction of new precedents that continue to shape education law.

Learned Hand noted in an address to the Association of the Bar of the City of New York in 1921 that “After now some dozen years of experience [as a judge] I must say that as a litigant I should dread a lawsuit beyond almost anything else short of sickness and death” (Association of the Bar, 1926, p. 87). The operative word in 1921 was *dread*. The operative word in this current edition of *The Principal's Quick-Reference Guide* is *prevention*, and, as was true in previous editions, this practitioner's guide is designed to reduce *ex post facto* decision making (applying law or making rules after the fact) in real-life, school-based risk management and incident resolution. If Latin were a living language, perhaps we could coin a new phrase, *pre facto* decision making, to describe this book's proactive approach to avoiding litigation and managing risk. We hope that by continuing to equip principals and other school leaders to act with both knowledge and understanding of education law, we will help make wise, safe, and legally defensible decisions in the best interests of students, teachers, and parents. We intend this book to make the daunting job of being an effective school leader a bit easier.

Please be advised that this book and the statements of the authors represent an effort to respond to the professional needs of the reader. The case law interpretation and the presentation of scenarios are not designed as statements of final authority. Only a court of law, guided by individual case facts, can be considered as an authority on a specific issue. That issue may be treated differently from court to court, state to state. This book serves a purpose for the education profession and provides only suggested guidelines for the avoidance of litigation. This book should not be considered a forecaster of impending or future litigation. It should also be noted that any guidelines suggested should be treated with caution in light of the specific subject matter examined and the expected level of personal involvement. There are those administrative and teaching responsibilities that transcend the norm, requiring a higher degree of duty and care, supervision, instruction, and maintenance. This book is

designed to provide accurate and authoritative information in regard to the subject matter covered. In publishing this book, neither the authors nor the publisher is engaged in rendering legal service. If legal advice or assistance is required, the services of a competent attorney should be sought. Although the “Management Cues” used as examples in this book are loosely based on actual or common events, such examples should be considered fictitious or hypothetical, and any resemblance to real people or to specific incidents is coincidental.

Please be advised as well that the cases cited throughout this book have been selected on a precedent-setting or best-example basis, regardless of jurisdiction or date of adjudication.

## References

- Association of the Bar of the City of New York. (1926). *Lectures on legal topics*. New York: Association of the Bar of the City of New York.
- Shoop, R. J., & Dunklee, D. R. (1992). *School law for the principal: A handbook for practitioners*. Boston: Allyn & Bacon.