North Dakota Law Review

Volume 43 | Number 4 Article 8

1967

The Legal Gravity of Specific Acts in Cases of Teacher Dismissal

Herman E. Behling Jr.

How does access to this work benefit you? Let us know!

Follow this and additional works at: https://commons.und.edu/ndlr

Part of the Law Commons

Recommended Citation

Behling, Herman E. Jr. (1967) "The Legal Gravity of Specific Acts in Cases of Teacher Dismissal," *North Dakota Law Review*: Vol. 43: No. 4, Article 8.
Available at: https://commons.und.edu/ndlr/vol43/iss4/8

This Article is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact und.commons@library.und.edu.

THE LEGAL GRAVITY OF SPECIFIC ACTS IN CASES OF TEACHER DISMISSAL

HERMAN E. BEHLING, JR.*

In the cases of dismissal of teachers which have come before the courts, the courts have had to decide whether the specific action of an educator was of such gravity as to warrant dismissal. In some cases he action under consideration consisted of a single act; in others, the courts had to make a decision on conduct involving repeated acts or a series of similar acts. This paper will examine these single, repeated, and series of similar acts as they relate to dismissal.

SINGLE ACTS WARRANTING DISMISSAL

Boards have attempted dismissal of teachers for a variety of acts; some have warranted dismissal and some have not. The most explicit guidance given to teachers and boards is contained in those cases where the disagreement centered around a single act, and it became the responsibility of the court to resolve the controversy by examining one act.

The violation of a written board requirement is a single act which has warranted dismissal. It is a well-established fact that teachers must comply with reasonable board requirements and that their refusal to do so may be grounds for disciplinary action. The single act of refusing to complete a questionnaire requested by the board resulted in successful action being taken against a teacher[1] Likewise, refusal to change leave status from sabbatical to maternity in accordance with board policy was sufficient to war-

---

* Maryland State Supervisor of student teaching· B.S. Kent State University, 1954 M.A. Columbia University, 1958 Ed. D. Columbia University, 1964.

1. Reed v. Orleans Parish School Board, 21 So.2d 895 (La. 1945).

rant dismissal. In this case the court said, "Disobedience of reasonable orders of the Board of Education may be classed as 'persistent and willful violation of the school laws.' "[2]

Implicit orders of the board may carry as much authority as explicit regulations. This is clearly seen where the teacher's outside business activities interfered with his teaching, and he was requested to state his intentions for the coming year The record in this case implies that the board intended to dismiss him, which it did, unless the problem was resolved.[3] Teacher cooperation with the administration in reasonable matters is essential to carrying out the educational function properly; therefore, when a teacher refused to accept reassignment, the court held the act to be a "plain neglect of duty" and grounds for dismissal.[4]

Improper conduct in contracting for a teacher position has led to dismissal. The authority to contract for school employment rests with the board, and the superintendent has no such right. Therefore, when a teacher supposedly entered into a contract with the superintendent, knowing that the board refused to employ her for the position she desired, she was dismissed. [5] Improper conduct under the contract also has led to dismissal. A legal contract, of course, implies that the parties will abide by the agreement until its termination. A teacher who contracted to teach for the school year and abandoned her position was entitled to neither reinstatement to her position nor her tenure rights.[6]

The violation of an oral order is also a single act which has been held to be grounds for dismissal. A California case held that knowing of a regulation, which was announced at a faculty meeting, and willfully proceeding to circumvent the rule was grounds for dismissal. Realizing that the class would be discontinued if the attendance fell below a certain number, the teacher falsified the record to indicate that sufficient students were present.[7]

A further single act which has been held sufficient for dismissal is the violation of a state statute. Proper certification is essential to obtaining a teaching position, and even though a teacher was falsely issued a certificate, she was not legally eligible to teach. A Tennessee statute denied certification to aliens. Dismissal was affirmed because the teacher lacked United States citizenship, and

---

2. Board of School Directors of Ambridge Borough School District, Beaver County v. Snyder, 346 Pa. 103, 29 A.2d 34 (1942).
3. Meridith v. Board of Education of Community Union School District No. 7, 7 Ill. App.2d 477, 130 N.E.2d 5 (1955).
4. Appeal of Ganaposki, 332 Pa. 550, 2 A.2d 742 (1938) Consolidated School District No. 4, Drvan County v. Millis, 139 F.2d 183 (1943).
5. Brown v. St. Bernard Parish School Board, 14 La. App. 460, 131 So. 760 (1930).
6. Evard v. Board of Education of City of Bakersfield, 64 Cal. App.2d 745, 149 P.2d 413 (1944).
7. Board of Education of San Francisco Unified School District v. Weiland, 179 Cal. App.2d 808, 4 Cal. Rptr. 286 (1960).

the court said that although she had been given a certificate for twelve years previously, "this seems inconsequential."[8]

Where an educator subjected the health of students to serious peril, by coming to school with a dangerous and contagious disease, he subjected himself to criminal prosecution, for the Mississippi statutes provided that any person having recently had "smallpox shall not 'go abroad in the company of other persons who have not had the disease,' " until he obtained a certificate from his attending physician.[9]

When a teacher violated a state statute which required him to exhibit a certain attitude, he was removed from his teaching position. The Florida statutes required teachers "to teach honesty and patriotism by precept and example," and the teacher's declaration that he was a conscientious objector, warranted his dismissal. The court said, "The relator's qualifications, as clearly manifested by the record, failed to conform with the requirements of our law " [10] It is not possible to determine from the record whether this was a case of a single act or repeated acts which brought about dismissal. What is clear, however, is that this single situation warranted removal.

Dismissals have been upheld under the common law where there was no violation of board regulation or state statute. The dismissal of a teacher who falsified an application record and a loyalty oath to obtain a teaching position, although this was not a violation of written board regulations, was upheld under the common law [11]

Presenting oneself as a poor example for children has been cause for removal under the common law and the educator's "escapade" in the school at night with a group of young people, one of whom was a student, was shown to be sufficient to justify dismissal. Of teacher conduct, the court said:

> We do not mean by what we have said to prescribe a rule of conduct measuring up to the notions of the self-constituted moralist but we do say that, when he engages in conduct that in the minds of a prudent and cautious person would arouse suspicions of immorality, he is then guilty of such misconduct. [12]

A single act of drunkenness at school, likewise, was thought not "to foster right ideals" in students, and resulted in the teacher's dismissal.[13] Although a teacher's single disrespectful remark to an administrator has been held not grounds for dismissal when the

8. State *ex rel.* Angle v. City of Knoxville, 180 Tenn. 462, 176 S.W.2d 801 (1944) Negrich v. Dade County Board of Public Instruction, 143 So.2d 498 (Fla. 1962).

9. Overstreet v. Lord, 160 Miss. 144, 134 So. 169 (1931).

10. State *ex rel* Schweitzer v. Turner, 155 Fla. 270, 19 So.2d 832 (1944).

11. Negrich v. Dade County Board of Public Instruction, 143 So.2d 498 (1962).

12. Gover v. Stovall, 237 Ky 172, 35 S.W.2d 24 (1931).

13. Tracy v. School District No. 22, Sheridan County, Wyoming, 70 Wyo. 1, 243 P.2d 932 (Wyo. 1952).

teacher was provoked to action, a single incident of a teacher calling the superintendent an "s.o.b." was held grounds for removal.[14]

The common law has also been invoked to uphold dismissals for activities outside the schools. The single act of being thrown in jail for allegedly committing assault and battery was not a violation of a regulation or statute, but dismissal ensued under the exemplar theme of the common law[15] In upholding the dismissal and emphasizing the teacher's exemplar responsibilities, the Supreme Court of Wyoming said:

> Intrusted as the teacher is with the education of the young, it becomes of primary importance that the principles of right living be by him instilled into them by his example and by his conduct.
>
> Riverton is a small community The arrest of plaintiff and his confinement in jail were unusual, and the fact thereof was apt to be on the tongue of every one in the community, including the school children. [16]

SINGLE ACTS NOT WARRANTING DISMISSAL

Certain attempted dismissals have not resulted in removal, and in these cases involving single acts there is further guidance as to acts which are legally permissible and thus not grounds for discharge. The single act of a teacher calling the principal "pigheaded" because of a disagreement which arose between the two was not sufficient to sustain dismissal.[17] Also, discharge was not sustained where a teacher administered reasonable corporal punishment to a third grade boy Removal was attempted on the grounds of "incompetency," but the court indicated that the record was "replete with testimony that she [was] competent."[18]

Complying with one state statute which leads to violation of another has been held not grounds for dismissal. The teacher was under an obligation to abide by two statutes which required certain subject matter to be taught. The court held she could not be dismissed for following the one and intending to follow the other later in the school year Non-compliance with the statute that required all teachers to teach physiology and hygiene because she was following the state superintendent's "syllabus," which did not require those two subjects, was held not grounds for dismissal.[19]

Single acts committed outside the school not warranting dismissal include: telling the board clerk that he "could go to hell,"

14. MacKenzie v. School Committee of Ipswich, 342 Mass. 612, 174 N.E.2d 657 (1961).
15. Baird v. School District No. 25, Fremont County, 41 Wyo. 451, 287 P 308 (1930).
16. *Ibid.*
17. Compton v. School Directors of District No. 14, 8 Ill. App.2d 243, 131 N.E.2d 544 (1955).
18. Watts v. Winn Parish School Board, 66 So.2d 350 (La. 1953).
19. Prevey v. School District No. 6, 263 Mich. 622, 249 N.W 15 (1933).

and signing a Communist Party nomination paper In the former case the teacher had been provoked; the court said:

> It seems to us that the plaintiff's disrespectful remark was provoked. The statement to Mr Brownlow that he "could go to hell" was made after Brownlow had apparently wounded the plaintiff's feelings by declaring that he was "tired of having people call" [concerning strict discipline in the teacher's classroom.] [The statements] were not made under circumstances where they tended to degrade the board before the pupils or the public.[20]

In the latter case it should be noted that this matter was tried in 1942 when the Communist Party was a lawful party in Pennsylvania, and the national attitude toward communism and the Soviet Union then was different from that which emerged after the beginning of the cold war [21]

REPEATED ACTS

Teachers have been dismissed for acts which have been repeated and this series of acts has been judged to be cause for removal. In some instances, the act was committed only twice, e.g., paddling the same child twice in the same day,[22] and in others the act may have been committed as many as six times, e.g., refusing on six different occasions, to permit supervisory personnel to enter the room.[23]

Repeated refusal to obey an oral order has been held grounds for dismissal. Many such cases relate to the matter of loyalty investigations. In five different appellate decisions, educators were dismissed for refusal to answer the superintendent, or his representative, concerning Communist Party membership.[24] In legislative investigations a refusal to answer, based on the protection of the Fifth Amendment to the Constitution of the United States, has generally not warranted dismissal—state statutes not to the contrary. However, educators have been dismissed because of such refusal in local administrative investigations under the tenure statute for such causes as "insubordination" or "incompetence." In three cases, where a state statute directed they answer such questions put to

---

20. Millar v. Joint School District No. 2, 2 Wis.2d 303, 86 N.W.2d 455 (1957).
21. Board of School Directors of School District v. Gillies, 343 Pa. 382, 23 A.2d 447 (1942).
22. Berry v. Arnold School District, 122 Ark. 1118, 137 S.W.2d 236 (1940).
23. Tichenor v. Orleans Parish School Board, 144 So.2d 603 (La. 1962).
24. Beilan v. Board of Education School District of Philadelphia, 357 U.S. 399 (1958) Adler v. Wilson, 282 App. Div. 418, 123 N.Y.S. 655 (1962) , Board of Public Education, School District of Philadelphia v. August, 406 Pa. 229, 177 A.2d 809 (1962) Board of Public Education, School District of Philadelphia v. Soler, 406 Pa. 168, 176 A.2d 653 (1961).

them by their governing boards, refusal to cooperate was grounds for dismissal.[25]

A teacher's repeated refusal to comply with his administrative superiors' orders to give a demonstration class in setting wooden forms for pouring cement to build a school sidewalk resulted in his dismissal being upheld. The Louisiana Court of Appeals said:

> Plaintiff was dismissed because of his continued refusal to obey an order ... Clearly the lesson and demonstration which plaintiff refused to teach had practical and educational value under the Industrial Arts Program. ...[26]

Repeatedly committing acts which violated the intent of a written board regulation has resulted in dismissal. Repeated refusal to follow the schedule of buildings where she was to teach music resulted in a sustained dismissal.[27] One teacher was also repeatedly told to comply with the board regulation to pursue further professional study, and her non-compliance was grounds for discharge.[28] Refusal, on six different occasions, to permit supervisory personnel to enter the teacher's classroom was a violation of board regulations requiring his compliance.[29] Refusal to report for duty after receiving several written notices to do so was cause for dismissal in two cases.[30]

Appelate courts have sustained dismissal on two occasions where there was no violation of any written document.[31] Both cases involved the circulation of rumors about students and faculty members. In these instances teachers apparently had told their story to several individuals or groups. Removal was not on the grounds that they were poor examples for students, although this may have been true, but because their acts had "cast a very harmful and unfavorable reflection" upon the school system and the "best interest of the school required" dismissal. A teacher's "immoral" misappropriation of funds was also an instance of dismissal for acts not in violation of any written regulation;[32] the Supreme Court of Pennsylvania affirmed his dismissal.

---

25. Huntington Beach Union High School District v. Collins, 202 Cal.2d 520, 21 Cal. Rptr. 56 (1962); Steinmetz v. California State Board of Education, 44 Cal.2d 816, 285 P.2d 617 (1955); Board of Education of City of Los Angeles v. Cooper, 136 Cal. App.2d 513, 289 P.2d 80 (1955).

26. State *ex rel.* Williams Avoyelles Parish School Board, 147 So.2d 729 (1962).

27. Stiver v. State *ex rel.* Kent, 211 Ind. 370, 7 N.E.2d 181 (1937).

28. Last v. Board of Education of Community Unit School District No. 321, 37 Ill. App.2d 159, 185 N.E.2d 282 (1962).

29. Tichenor v. Orleans Parish School Board, *supra* note 23.

30. Board of Education of Richmond School District v. Mathews, 149 Cal. App.2d 265, 308 P.2d 449 (1957).

31. Jepsen v. Board of Education of Community High School District No. 307, Kankakee County, 19 Ill. App.2d 204, 153 N.E.2d 417 (1956); Hayslip v. Bondurant, 194 Tenn. 175, 250 S.W.2d 63 (1952).

32. *In re* Flannery's Appeal, 406 Pa. 515, 178 A.2d 751 (1962).

The repeated and excessive use of corporal punishment has resulted in dismissal. The Court said:

> The boy was punished twice on the same day, each time being whipped with a paddle. The first time was for suggesting a riddle and the next time because the pupil threw a paper wad at the teacher These acts on the part of the pupil, especially the last one, justified the teacher in inflicting reasonable punishment on the pupil, but he was not justified in inflicting excessive punishments.[33]

The conduct of the teacher outside the schools has resulted in removal when the educator has failed to show the proper attitude in patriotism and loyalty matters or when the teacher socially set a poor example for children. Some of the former were in violation of a board regulation, but most did not involve an infraction of either board rule or state statute. Refusal to answer questions of a legislative committee concerning Communist Party membership where the board had adopted a rule which "made it the duty [of teachers] to answer under oath questions propounded by the committee relative to 'membership in the Communist Party' " has caused dismissal to be sustained.[34] In *Faxon v School Committee of Boston*[35] a refusal to answer similar questions of a legislative committee also caused removal. It was upheld by an appellate court, even though no board regulation existed. It should be noted, however, that this case now appears to be in contradiction with the *Slochower* case in which the United States Supreme Court issued its admonition against "imputing a sinister meaning to the exercise of a person's constitutional right under the Fifth Amendment " in a federal proceeding.[36]

Dismissal of teachers for repeated acts performed outside the school has resulted where teachers have not recognized their exemplar responsibilities. Repeated drunkenness on the street resulting in the teacher being jailed, showed—a lack of responsibility in this regard.[37] A teacher charged with "immorality" because she falsified certain affidavits, was similarly a "bad example to the youth whose ideals a teacher is supposed to foster and elevate."[38]

Certain acts, both within and outside the school, regardless of their repetition, have not warranted dismissal. Although there was no violation of a written regulation, a school board dismissed

---

33. Berry v. Arnold School District, *supra* note 22.
34. Board of Education of City of Los Angeles v. Eisenberg, 129 Cal. App.2d 732, 277 P.2d 943 (1955) Board of Education of City of Los Angeles v. Wilkinson, 125 Cal. App.2d 100, 270 P.2d 82 (1954).
35. Faxon v. School Committee of Boston, 351 Mass. 531, 120 N.E.2d 772 (1954).
36. Slochower v. Board of Higher Education of City of New York, 350 U.S. 551 (1956).
37. Scott v. Board of Education of Alton Community Unit School District No. 11, 20 Ill. App.2d 292, 156 N.E.2d 1 (1959).
38. Appeal of Batrus, 148 Pa. Super. 587, 26 A.2d 121 (1942).

several teachers for refusal to answer the superintendent's questions concerning knowledge of colleagues' Communist Party membership. The New York Commissioner overruled the board, saying that this kind of questioning would tend "to engender an atmosphere of suspicion and uneasiness in the schools and colleges, that it set one teacher against another" and would cause a "breakdown of moral fibre." Exercising judicial self-restraint, the New York Court of Appeals refused to overturn the Commissioner's ruling.[39]

Habitual tardiness has been held not cause for dismissal when the administration failed to have a conference with the teacher to discuss the problem and possible solutions. The Supreme Court of Louisiana said, "Plaintiff should have been specifically warned by her superiors and given an opportunity to correct her tardiness."[40]

Repeated acts of educators outside the school which have not warranted dismissal have related to educators' refusal to answer legislative committee investigations concerning Communist Party membership. A statute which requires educators to answer legislative committees concerning Communist Party membership must be carefully followed. Where the statute makes it mandatory for educators to answer concerning membership after a certain date, they may not be dismissed for refusing to answer about their activities before the specified date.[41] Furthermore, two recent cases have clearly emphasized that teachers may not be dismissed for refusal to answer a legislative committee where there is no statute requiring their cooperation.[42] These build upon the construction of the *Slochower* case[43] and emphasize again the apparent inappropriateness of the *Faxon* decision.[44]

Also, a regulation may not abridge the teacher's right to due process of law The United States Supreme Court has given this construction to a section of the Charter of the City of New York which permitted summary dismissal without benefit of appropriate procedures.[45]

SIMILAR ACTS

Dismissal has been sustained where educators have committed several acts, which are not identical, but similar in nature. Although these acts occurred both in and outside the schools, all

39. Board of Education of City of New York v. Allen, 6 N.Y.2d 127, 160 N.E.2d 60 (1959).
40. Lewing v. De Soto Parish School Board, 238 Pa. 43, 113 So.2d 462 (1959).
41. Board of Trustees of the Contra Costa Junior College District v. Schuyten, 161 Cal. App.2d 50, 326 P.2d 223 (1958).
42. Board of Public Education, School District of Philadelphia v. Intille, 401 Pa. 1, 163 A.2d 420 (1960) Board of Public Education, School District of Philadelphia v. Watson, 401 Pa. 62, 163 A.2d 60 (1960).
43. Slochower v. Board of Higher Education of City of New York, *supra* note 36.
44. Faxon v. School Committee of Boston, *supra* note 35.
45. Slochower v. Board of Higher Education of City of New York, *supra* note 36.

the cases concerned with multiple, similar acts relate to a teacher's direct association with children. A teacher's many anti-American statements in his classroom and his "persistent efforts to enlist support for his views from his pupils" were of a similar and unpatriotic nature. Their commission was in violation of the oath assumed by him to obtain his credentials, and, therefore, permitted the State Board of Education to revoke his credentials. His composite of offenses was sufficient for his dismissal for "unprofessional conduct" to be upheld by both trial and appellate courts.[46]

Improper handling of the topic of sex in a speech class exceeded the "standards of propriety of the contemporary community," but did not, as the court clearly pointed out, violate any expressed rule of the board. The court said that if he had conducted these "discourses on sex . . in such a manner as to constitute proper conduct in a biology class, they would not automatically have been . misconduct;" but he had exceeded the standards of propriety by giving "the students the impression that relator was recounting a personal experience."[47]

A dismissal in Illinois was the result of the commission of a series of similar acts, which included failure to cooperate with students, administration and teachers.[48] The Supreme Court of Ohio affirmed dismissal of a teacher who had committed multiple acts of cruelty to children. In this situation, the teacher "struck one pupil with the pointed end of a pencil on the palm," and "cut the hair of a child in front of the others." Almost in disbelief, the court said:

> If this evidence is to be believed, it would show characteristics which would not even have been tolerated in the days when the hickory stick was the symbol of authority in the classroom.[49]

The many acts which contributed to the removal of a Pennsylvania teacher showed her to be a generally bad example to children. In placing the decision under the construction of the tenure statute, the court chose the acts which related to gambling to affirm dismissal under the "immorality" cause; however, there can be little doubt that it was the general nature of her many acts which caused the Supreme Court of Pennsylvania to reverse the Superior Court and rule for removal.[50]

---

46. Board of Education of City of Eureka v. Jewett, 21 Cal. App.2d 64, 68 P.2d 404 (1937).
47. State *ex rel.* Wasilewski v. Board of Directors of the City of Milwakee, 14 Wis.2d 243, 11 N.W.2d 198 (1961).
48. Pearson v. Board of Education Community United School District No. 5, Macopin Co., 12 Ill. App.2d 44, 138 N.E.2d 326 (1956).
49. Powell v. Young, 148 Ohio St. 342, 74 N.E.2d 261 (1947).
50. Horosko v. School District of Mount Pleasant Township, 335 Pa. 369, 6 A.2d 866 (1939).

Multiple similar acts which have not warranted dismissal include constant acts of complaining about the operation of the schools. The board dismissed a teacher for refusal to cooperate with the superintendent, but neither the trial nor the appellate court was persuaded that the acts could be construed as "violation of rules" under the tenure statute. The Supreme Court of Montana said:

> Since the teacher's contract did not provide that plaintiff could be discharged for failure to cooperate with such superintendent and it was not shown "by the rules and regulations adopted by the Board, which are made a part" of the teacher's contract, that failure to so cooperate constituted a ground for such discharge, the school board's act was an arbitrary one.[51]

Criticism of the local education conditions made outside the school was also not held to be sufficient cause for dismissal. One educator wrote several critical letters to the local newspaper, organized a forum in the community to discuss school matters, and endorsed a sponsor of the forum for election to the school board. In spite of the fact that a California Teachers Association panel testified that his acts violated their code of ethics, the court said:

> The uncontradicted evidence reveals that defendant violated no board or school policy by publicly airing his grievances; indeed, it appears that the board and school had no written grievance procedure. Neither did defendant violate any other ascertainable school rule.[52]

Where the teacher was dismissed for a multitude of dissimilar acts, and court did not identify those which contributed most to dismissal, little guidance is given to the investigator who is interested in adding to his knowledge of acts which do or do not warrant dismissal.[53] Also, decisions which do not state the acts being considered, but merely state the charge, the reasoning and the decision, give little assistance to guide the acts of educators.[54]

CONCLUSION

The courts have stated their position so clearly that there can be little doubt about the fact that the judiciary views the role of the teacher as one which covers a wider sphere than the class-

51. Hovland v. School District No. 52, 128 Mont. 507, 278 P.2d 211 (1954).
52. Board of Trustees of Lassen Union High School District v. Owens, 206 Cal.2d 147, 32 Cal. Reptr. 710 (1962).
53. Fox v. San Francisco Unified School District, 111 Cal.2d 885, 245 P.2d 603 (1952) State v. Peterson, 208 Minn. 361, 294 N.W 203 (1940) State *ex rel.* Weekley v. Young, 141 Ohio St. 260, 47 N.E.2d 776 (1943) Fowler v. Young, 77 Ohio App. 20. 65 N.E.2d 399 (1945).
54. Conley v. Board of Education of City of New Britain, 143 Conn. 488, 123 A.2d 727 (1956).

room. The courts have forcefully demonstrated that one who enters the education profession assumes a responsibility which cannot be taken off like one's coat at the end of the teaching day In fact, there seems to be no end to the educators' day Heavy responsibilities for the healthy growth of children and youth are with teachers constantly The courts have made it quite clear that educators are held to be professionally responsible morning and evening, in school and out. Courts likewise have expected teachers to possess certain traits not commonly required of the general public and to divest themselves of other characteristics which might be tolerated in those in some other occupations.

Appellate courts have given consideration to some aspects of a teacher's technical proficiency when reviewing such topics as corporal punishment, classroom discipline, and appropriate instruction in patriotism and sex education. In no case has the court been concerned with the teacher's knowledge of his subject matter field. The dearth of cases on this topic may be related to the procedure through which a teacher obtains tenure status. Teachers are generally required to serve a probationary period when the quality of their work as educators is closely supervised. In some instances teachers may be required to possess minimum levels of preparation to attain tenure status.

Although the decisions reviewed in this article represent all the cases which have been heard in appellate courts during the past four decades, these opinions provide a limited view of conduct expected of educators, for the judicial decisions discussed here do not answer all questions an educator might have concerning appropriate conduct. It is not the courts' business to develop a comprehensive study of appropriate conduct and competence. The responsibiltiy for the establishment of higher levels of professional conduct rests with educators.