

## **THE VALUE OF EDUCATIONAL LAW TO TEACHERS IN THE K-12 SCHOOL SYSTEM**

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Today we are living in a highly litigious society and more so than ever before, our citizenry is quite keen on their individual rights and very prepared to advocate for those rights. Technological advances especially with respect to the use of the internet and the media in general have facilitated individuals becoming informed as to what those rights are and what they should do if they perceive those rights to have been violated.

What is the significance of these fairly recent developments for today's educators? Today's schoolhouse is a collection of individual persons who bring with them daily into their classrooms an array of highly complicated issues, ranging from low self-esteem to peer pressures regarding drugs and sex, just to mention a few. On a day to day basis incidents happen in schools and it is little wonder that many of those happenings evoke and often necessitate legal or quasi-legal responses from teachers and school administrators.

The study of educational law represents an attempt to provide new and experienced educators with the appropriate knowledge to deal effectively with these many challenges that occur regularly in our school systems.

### **Intent of Paper**

The intent of this paper is to report on the findings of a study conducted by the author which examined the impact, if any, educational law has had on the everyday practice of educators. For the past several years the author has taught two courses in Educational Law (see Appendix B) in the Faculty of Education at Memorial University of Newfoundland: an undergraduate course, Education 4420 (Legal and Moral Issues in Education) and a graduate course, Education 6335 (The Legal Foundations of Educational Administration).

Qualitative in nature, the study involved an online survey being administered to students in the last 5 classes of each of these courses (see Appendix A for the actual survey). These classes were taught from 2004 to 2007.

### **Study Objective**

This study had two main objectives: firstly, to determine what positive impacts/influences, if any, these courses have had/are having on the everyday practice of those students who are now teachers; and secondly, to determine what negative impacts/influences, if any, these courses have had/are having on their everyday practice as teachers. A tertiary objective was to determine if students perceived these courses to

be of significant value to undergraduate Bachelor of Education (B. Ed.) programs and to graduate programs (M. Ed.) in Educational Leadership/Educational Administration.

A total of 73 former students completed and returned these qualitative surveys.

### **The Literature**

Although there is no dearth of writing on educational law, there appears to be a gap in that literature on exactly how educational law affects the daily practice of educators. Much of the current literature in educational law emanates from the United States but other countries (e.g., Australia, Canada) are beginning to develop significant bodies of literature as well.

The existing literature especially from the United States is highly preoccupied with this whole area of litigation. Wagner (2007) offers this observation:

It can be argued that public school litigation has had an important impact upon education. In the previous century, lawsuits were influential in ending segregation, protecting the First Amendment rights of all students, and expanding the public education opportunities for children with disabilities. Presently, there are lawsuits seeking to change schools (e.g., school funding challenges, school choice, and the No Child Left Behind Act). While it can be argued that education lawsuits have had an important impact upon education, others argue that there are too many school lawsuits and that matters could be resolved in other non-litigious ways. (p. 2)

Taylor (2001) avers that, in this twenty-first century, this vast amount of legal action requires educators to possess a basic understanding of the laws that impact them and the concerns that frequently arise in education law. Dunklee and Shoop (1986) opined that teacher programs often do not prepare teachers to understand the relationship of the constitution, statutes, and judicial decisions to the daily process of delivering instruction and providing supervision. Sergiovanni, Burlingame, Coombs and Thurston (1992) have suggested that school administrators may have a larger responsibility than other professionals to understand the legal process as well as the substantive requirements of certain landmark decisions and their effects on school policies.

In Canada and other countries (e.g., Australia) there appears to be a pre-occupation with the “legal literacy” of educators especially school administrators. Legal literacy refers to the knowledge level that administrators have with respect to educational law and how it impacts on the governance of their schools.

Several studies (e.g., Daresh & Playko,1992; Findlay, 2007; Hewitson, Stewart & Whitta,1992; McCann & Stewart, 1997; Peters & Montgomerie,1998); Stewart, 1996; Thomas & Hornsey, 1991) have been conducted to determine the knowledge level of principals. Findlay (2007) best summarizes what these studies have concluded: that “The data suggest that principals, based on their median score, may not be the best source

of legal information for their vice-principals or their staffs” (p. 197). She further elaborated:

Although the administrators with the greatest amount of experience were able to answer more of the test items correctly than the other respondents, they still did not answer even 50% of the questions correctly. The respondents appeared to rely heavily on learning from experience, which may be a cause for concern, although experience is of value and can inform decision making. If administrators’ legal decisions are not based on accurate knowledge, it would appear that even those with extensive experience are at risk of encountering legal difficulties. . . The tendency of school administrators to make decisions based on experience or intuition could lead them into legal difficulty. (p. 197)

Given that there is a paucity of literature on how educational law actually impacts the everyday practices of educators, it seems quite timely and appropriate that a study on this topic be undertaken.

### **Research Method**

This study was qualitative in nature and surveyed students, now practicing teachers, taught by the researcher in two educational law courses, one at the undergraduate level and one at the graduate level. The survey was conducted online and involved 73 former students. The results reported here are “information-rich” (Patton, 1990) in their description of the various impacts these law courses have had on the subjects participating in the study.

### **Research Questions**

#### ***Primary Questions***

The two primary research questions that drove this study were:

1. As a result of your having studied a course in Educational Law in your university studies, have there been any positive impacts/influences on your everyday work as an educator? Please list any of those impacts/influences and any practical examples that you might recall.
2. As a result of your having studied a course in Educational Law in your university studies, have there been any negative impacts/influences on your everyday work as an educator? Please list any of those impacts/influences and any practical examples that you might recall.

### Secondary Questions

Three secondary questions were also included in the study:

1. Do you think a course in Educational Law should be a compulsory course in every Bachelor of Education program in Canada? Please elaborate.
2. Do you think a course in Educational Law should be a compulsory course in a Master of Education program in Educational Leadership/Educational Administration in every university across Canada? Please elaborate.
3. Please list any additional comments/points you would like to make about the usefulness or lack of usefulness of a course in Education Law in a Bachelor of Education program.

### **Emergent Themes**

Qualitative data analysis begins with identifying the various themes that emerge from the raw data (Strauss & Corbin, 1990). A number of themes were identified.

#### Primary Research Question Number One

In the data collected from primary research question number one, four major themes have been identified:

1. The heightening of awareness, understanding and sensitivity with respect to the various legal issues confronted by educators in today's schools;
2. The facilitation of sound and responsible decision making when dealing with various legal issues in schools;
3. The fostering of a certain degree of professionalism; and lastly,
4. The raising of teachers' self-confidence levels.

#### Primary Research Question Number Two

The data from this question have suggested four themes:

1. The potential for paranoia;
2. The potential to impede/inhibit teacher risk taking;
3. The potential to increase teachers' stress levels; and lastly,
4. No negative impacts.

## Findings

This section provides a sampling of the various participant responses categorized under each of the themes identified above.

### *Primary Research Question # 1*

#### *Heightening of Awareness, Understanding and Sensitivity*

- Mary, currently a first- year teacher in Kindergarten to Grade 9 school, commented that “I am more conscious of my own rights as a teacher as well as the fact that I am more conscious of my own actions. An example was a student asked me for a ride home; the humanitarian in me wanted to say “yes”, just hop in, no problem? If I had not done the Educational Law course, I would have done just that. Since doing that course, I knew that I could not give this student a ride without going through the proper steps. Basically, it saved me from future and unnecessary trouble”.
- James, a teacher in a large senior high school, stated that “The discussion of specific examples of how the Criminal Code of Canada clarified the limitations as to what can and cannot occur with respect to the relationship between students and teachers”.
- Sarah, who teaches in a large grade 4 to 6 school, felt that she had a more conscientious attitude towards teacher liability concerning students in the classroom and on field trips.
- Allison, a senior high teacher, offered the following commentary: “I once ran into students from my school at a bar. Due to my having taken Legal and Moral Issues, I felt that I needed to let the bar know that the students were under-aged. I approached one of the bouncers and pointed out the students in question. Later that week I spoke privately with the two girls concerning why I felt that I had to tell on them. Although I don’t think they completely understood my reasoning, I knew that was what I had to do. Had those students continue to consume alcohol at the bar and later gotten into an accident or some other form of trouble, I would have felt terrible and perhaps might have even gotten into trouble myself”.
- Marie, an elementary teacher, stated that she has now become more aware of her role especially that relating to “in loco parentis” (i.e., in the place of the parent) as well as the roles and responsibilities she has in terms of legalities when she’s in charge of students in school and during out of school activities including various field trips.
- William, a Physical Education teacher in a senior high school, stated: “Due to the knowledge gained in the Ed Law course I have become more safety conscious in my classroom (gym). Safety was always uppermost in my mind when carrying out

activities in the gym but this course has reinforced the need for classroom safety even more so”.

*Facilitation of Sound and Responsible Decision Making*

- Gloria, teaching in a large senior high school commented that “The courses I have completed in Educational Law have helped me in so many different ways. As a new teacher, there are many things that you wish someone would tell you and Education Law has done exactly that. For example, when a student ‘hit’ on me in the hallways and tried to spread around rumors that we were dating, I immediately remembered the many case studies that we had discussed in class. I was afraid that my job would be on the line and I wanted the matter cleared up immediately. I wrote up the incident and I reported to the administration. I then insisted that ‘Joe’ make an apology to me and in front of the principal as well”.
- A senior high teacher, Wilson stated that having studied Educational Law made him aware of the importance of obtaining administrative assistance when the situation warrants such assistance. Specifically, he was referring to areas such as child abuse and school attendance.
- Another senior high teacher, Edward spoke of the need to document any disciplinary incidents. “I bought a \$2.00 notebook to document, document, and document. One thing emphasized in the Law course was the importance of documenting incidents with students because you may need certain facts later that would be almost impossible to recall from memory.”
- Junior high teacher Arthur pointed out the value of case studies in this regard: “It’s great to have had the chance to learn from case studies and learn from the mistakes of others, instead of having the misfortune of making some of these mistakes ourselves and then having to learn from them the hard way”.
- Paul who is a senior high teacher commented on the value of Educational Law to his classroom management practices and extra-curricular involvement: “The impact of having completed an Educational law course is not seen so much in my classroom teaching practices but more so in my classroom management and extra-curricular involvement. I have paid more attention to school and board policies re things such as student travel and the handling of money. In doing so I will not register my students for any extra-curricular activities or curriculum-related field trips without revisiting the policy and ensuring that the appropriate paperwork is documented. This was something that I would normally do anyways but knowing that there are some teachers who may “ignore” some of the paperwork, it makes me very stressed as to what could possibly happen.
- Neil, a senior high teacher, opined that: “In my short time as a high school teacher I have benefitted from completing an Educational Law course during my undergraduate degree. I feel this course has made me more aware and has allowed

me to make better decisions. Perhaps the most significant topic for me in the course was the NL Schools Act which provided me with a lot of valuable information”.

*The Fostering of Professionalism*

- A substitute/supply teacher in 7-12 schools, Jason had this to say: “All in all, having knowledge of specific, real-life cases and knowing the laws in practice in the classroom have better equipped me to have longevity in this career and to maintain a truly professional demeanor”.
- Monica, an elementary teacher, stated that the course in Educational Law that she studied, provided her with a awareness of professional boundaries with parents and care-givers. Specifically, she referred to her being able “to maintain a professional and calm nature when addressing sensitive issues with parents”.
- Monica also pointed out that the course provided her with an awareness of teacher rights with respect to relationships with colleagues especially in the areas of harassment and suspicious or questionable behavior.
- Primary teacher Colleen commented that “I consider the 2 courses that I did in Educational Law to have been among the more useful and enjoyable courses I have completed as part of my teacher training. I believe they have aided me in becoming a more diligent and effective teacher. They have also made me a more trustworthy and effective employee”.
- Jacinta who works as a principal in a K-6 school had this to say: “As part of my ongoing professional growth and development I have taken a course in mediation. Having done a course in Education Law I am now better able to ascertain the objective criteria from which I draw in conducting mediation sessions. I feel I also have a better understanding of the collective agreement under which my staff is governed. For example, when a teacher asked me recently how many days she would get to attend her grandmother’s funeral I knew the answer without having to look it up and I was better able to deal with teachers on a more personal level, being more sympathetic etc. because I was not fumbling through a document to find the answer. Another example was when I had to address serious attendance concerns with a parent. I was able to explain what the Schools Act says about parental obligations regarding attendance. Overall, having done an Education Law course, I feel I am more aware of legal implications surrounding my everyday work”.
- K-12 vice-principal Greg offered this viewpoint: “Having completed a course in Education Law is an eye-opening experience that informs teachers of the many do’s and don’ts in the teaching profession. Our world is becoming more litigious so as teachers we must be informed of all the legal implications that may and do occur. It certainly changed my perspective and made me a better teacher/professional in the long run”.

*The Raising of Teachers' Self-Confidence Levels*

- Neil, who teaches in a Kindergarten to Grade 6 school, stated that “This course has given me personal and invaluable insight into participation, I felt a great sense of involvement with legal issues and I feel very competent to deal with administrative practices in school today”.
- Philip is a junior high teacher in a northern school. He offered this perspective on having done a course in Educational Law: “It's been very helpful for me as an educator in a Northern school, I am teaching junior high and it has been beyond anything I could have possibly imagined. It has been very helpful to know the law and the ins and outs of the Collective Agreement. I have been in constant meetings with parents, students, principals because of discipline problems and it has been very helpful to know my rights”.
- Elementary teacher Jillian, echoed similar sentiments when she states that the course provided her with an “extensive knowledge of the Schools’ Act which was extremely useful when dealing with irate parents and caregivers”.
- Junior high teacher Gail said that “educators work closely with children and parents. We spend hours with students everyday where we are their primary caretakers. We must know how to keep them and us safe. Knowing you know how to handle yourself can bring a sense of confidence to an educator”.
- Marilyn, a substitute/supply teacher in K-12 schools, had this to say: “In the course I took we discussed a variety of case studies where teachers were questioned about their actions and how the situations had concluded for them. This opened my eyes to many different things that could happen in the school setting if a teacher did not make a conscious effort to ensure the safety of students. I became more aware of what to look for when supervising students on the school property and the proper way to act professionally around students”.
- Industrial Arts teacher Malcolm commented: “Sending home safety sheets to inform parents of what their children will be involved with in the Industrial Arts shop and having them sign those sheets to ensure they have read the document have helped me feel more self-confident. Although I know this does not alleviate myself from liability issues, it does indicate that an effort was made to inform both parents and students of the harm and injury that can be caused by inappropriate behavior and misuse of tools in an Industrial Arts classroom”.

Discussion

These various themes speak to the positive impacts/influences former students have experienced from having done a course in Educational Law, either at the undergraduate or graduate level. At first blush a typical reaction to these responses is that these themes are all of the commonsense variety. There is no argument with that perspective but upon

further reflection and perhaps closer scrutiny, one might conclude that common sense is exactly what we want our teachers, both new and seasoned, to utilize in their classrooms.

Although there is a paucity of research on the importance of educational law in the practice of today's educators, one need only peruse the various issues currently being written about in the educational law literature in Canada to get an idea as to the gravity of those issues. As limited as that literature is, consider the following titles in such publications as CAPSLE Comments, Educational Law Reporter, the Educational Law eBulletin, the Education and Law Journal, the Ontario College of Teachers' *Professionally Speaking* magazine, and the British Columbia College of Teachers' *TC Magazine*:

- "Facing Facebook"
- "School Boards Liable for Students' Loss"
- "Readers Weigh In on Off-Duty Conduct"
- "Expulsion"
- "Leave to Appeal Knife-Carrying Student Refused"
- "Professional Misconduct"
- "Where Was That Line?"
- "Best Laid Plans: From Field Trips to Extracurricular Explorations – Preparation Counts"
- "Principal and Teacher Win Defamation Case"
- "Educators Successful in Internet Defamation Case"
- "Student Threats With BB-Gun"
- "Teacher Convicted for Inviting to Sexual Touching With Lollipop"
- "Injunction Granted to Allow Same Sex Prom Date"
- "Violent Confrontations With Principals"
- "Criminal Conviction for Groping Classmate" and lastly,
- "Court Refuses Injunction Against School's Drug Detection Program".

Although this is a limited and somewhat cursory listing of those various issues, it does point out the nature of such issues being faced by educators, both teachers and administrators, in the classrooms across Canada. It appears that the number and variety of legal problems being confronted by teachers are on the rise. Gullatt and Tollett (1997) offer this perspective, albeit American, as to why this is so:

The legal problems facing teachers are the same problems of society at large. As society changes, so must laws change to accommodate newer values and to protect the rights of individuals. What was taken for granted for many years, such as the teacher's word, discipline issues, and rights of the student, is no longer taken for granted. Instead of depending on legislative bodies to implement change, citizens often turn to the courts, partly because it may be quicker and partly because court rulings may reflect social changes. (p. 131)

This researcher suggests that this American perspective is highly congruent with that of our Canadian situation.

Johnson (1994) has stated that principals and teachers are often involved in the legal system through actions or inactions related to the performance of their duty. This would seem to imply an obvious ignorance of the law as it pertains to the professional performance of educators. Teachers new to the profession lack experience and judgment and Samuelson (1994) contends that a background in educational law might help them avoid the bad judgment(s), indiscretion(s), and honest mistake(s) that have the potential to ruin their careers.

An examination of the various themes emerging from the participants' responses to primary research question number two follows.

### *Primary Research Question # 2*

#### *The Potential for Paranoia*

- Junior high teacher Sally commented that the only negative thing she found about doing the Educational Law was that it “makes you more cautious and sometimes I think this could lead to paranoia. I think that a classroom has to be made as comfortable as possible for the teacher and the students and knowing too much information could hinder this from happening”.
- Another junior high teacher, Genevieve talked about balancing paranoia with reality: “Initially you get a little paranoid that everything that happens can have significant legal repercussions, but quickly you balance the focused study with a dose of reality and realize that the main point of the course is to raise awareness in educators of the importance of considering the implications of actions and decisions in the daily running of the school”.

- Elementary teacher Carolyn offered this perspective: “There may be a somewhat ‘loss’ of comfort and loving manner with younger, primary students. Due to potential ‘misunderstandings’, what was once a comforting hug from a teacher has now become a suspect of teacher molestation”.
- Supply/substitute teacher Amy had this to say: “As a result of the Law course I’ve learned that you cannot prevent students from getting hurt but, if you are responsible and proactive, the situation will be resolved. It is when you are reckless and irresponsible that the consequences will present themselves”.
- Jennifer who is a supply/substitute teacher in K – 12 schools stated that: “The only thing I would comment on for negative impacts/influences is that I am often worried I will be approached about something I have not done as a result of someone telling a lie. I thought about this a lot in the year I was responsible for driving students. I was always worried that someone could make up a lie and that it would be hard to prove the truth. Fortunately, everything went fine and nothing came up”.
- Grade 7 – 12 teacher Megan reflected on her sense of paranoia: “At first I felt somewhat paranoid about legalities. I was afraid that I might get myself in trouble with a slip of the tongue, over a misunderstanding or because of carelessness. However, as I gained real classroom experience, I realized that my knowledge of Educational Law was not meant to cause paranoia but rather to inform me about what actions are least likely to lead to legal difficulties, what the law requires of me as an educator and what rights and responsibilities I have. Overall, my experiences with Educational Law have been positive”.

#### *The Potential to Impede Teacher Risk Taking*

- Senior high teacher Denise offered this point of view: “I was recently asked to take part in a downhill skiing field trip and I immediately remembered the many legal issues we discussed in our classes. I realized that I would be taking on a huge responsibility, especially with a lot of the rougher kids signed up for the trip. Because of the possible implications/accidents that may have occurred, I decided to turn the opportunity down. Instead, I opted for bowling, which seemed a lot safer for both me and the kids. I guess if I had not taken the course, then I may have gone. But I do believe I can make more informed decisions now and that would be considered a positive thing on my part”.
- Jennifer who teaches in a Kindergarten to grade 12 school mentioned that “Perhaps the only negative impact, if you could even call it that, is the constant worry that something may happen in the classroom and that perhaps in certain instances the learning is placed second to the ‘watchful eye’ so to speak”.
- Primary school teacher Sandra expressed this concern:

“The only negative I can think of is that it has made me more apprehensive about doing certain activities with children, especially anything extra-curricular or activities involving school trips. Sometimes the possible repercussions are just not worth the effort. This may limit the educational experiences school children can be involved in”.

- Elementary school teacher Marion speaks to the need for preplanning with respect to field trips: “The only influence it has had on me is that it has made me more cautious of activities that I plan in the class and certain types of field trips that I take. I try to make sure than any action or activity planned is safe as possible and that if there were ever any injures it would not have been because of neglect or oversight but because sometimes accidents happen and I was acting in loco parentis.
- Junior high teacher Courtney speaks to this concern:  
The only influence it has on me is that It has made me more cautious of activities that I plan in the class and certain types of field trips that I take. I try to make sure than any action or activity planned is safe as possible and that if there were ever any injures it would not have been because of neglect or oversight but because sometimes accidents happen and I was acting in loco parentis.
- Geoff who teaches senior high students makes an interesting point about the actions of colleagues: “The only negative impact would be in discussions with teachers who have not had the benefit of this type of course. Often such teachers do not fully understand their rights nor their responsibilities as educators. Such teachers occasionally take either too cautious or too liberal a stance when dealing with students and in either case either forfeit learning opportunities or place themselves in undue risk of reprisal. An example of a teacher putting him/herself at undue risk would be when teachers enter into “Facebook” forums with groups of students. Although the teacher may conduct him/herself appropriately, they are still entering into outside-of-school social contact with the students and may become privy or be subjected to inappropriate conversation, content and information”.

#### *The Potential for Heightened Teacher Stress Levels*

- Tim is a teacher in a Kindergarten to Grade 12 school and he pointed out that “sometimes hearing about scary legal situations forces you to overthink or be overly nervous”.
- Stacey, a teacher in a very large urban school in mainland Canada, commented that “The only negative aspect is that sometimes I think more about what I cannot do than what I can do. Sometimes it feels like you always need to look over your shoulder. It can also be stressful when organizing field trips and events. I also worry that students sometimes do not take the legal side of their actions very seriously, especially in a large urban setting where my school is located. It does not seem to faze some students that their actions can have serious consequences, whether it be with the school administration or the police”.

- Judith, a supply/substitute in Kindergarten to Grade 12 schools, stated that “The only thing that I would comment on for negative impacts/influences is that I am often worried I will be approached about something I have not done but a lie that someone may tell. I thought about this a lot in the year that I was responsible for driving students. I was always worried that someone could make up a lie and that it would be hard to prove the truth. Fortunately, everything went fine and nothing ever came up”.
- Elementary teacher Angela offered this listing of concerns:
  1. a more pre-occupied attitude with respect to teacher liability (e.g., leaving the room for 2 min.);
  2. a somewhat “loss” of comfort and loving manner with younger, primary students; due to potential “misunderstandings”, what was once a comforting hug from a teacher has now become a suspect of teacher molestation;
  3. the fear of becoming too “caught up” in all the red tape & bureaucracy of “what to do” and “what not to do” in your daily teaching;
  4. realization and fear of the high levels of liability of taking students off school grounds (e.g., field trips, playing outside, going on a walk off property)
  5. added stress to an already “full” professional responsibility (e.g., filling out accident and behavior forms); this leaves minimal time and effort for creative curriculum planning.
- Martin who works in a junior high school comments that “While not a specific experience of mine, I could see how someone could become rather stressed when faced with a variety of legal and moral issues that could crop up in an educational setting”.
- Carol , who teaches in a K – 12 school offers this perspective:  
Although the liability aspect of the course has made me more conscientious, it has also made me a little hesitant in my interactions with students. I sometimes feel reserved in what I want to say in class discussions because I am fearful of potential misinterpretation. For example, I am teaching adolescence and sexuality this year. This course lends itself to misinterpretation so I am extra cautious of what and how I present the course material. There is potential for stress here but this is the nature of the system in which we teach and not necessarily a fault of the course.

*No Negative Impacts*

- “I really do not think there have been any negative repercussions from taking the Ed Law course. I enjoyed it and found it useful and interesting. I would be very surprised to find that anyone thought there were any negative impacts/influences from having taken the course” is how one participant responded to the second question in the survey.

- “None that I can think of.” (Jennifer, senior high teacher)
- “No, there have been no negative influences. All influences have been positive.” (Melanie, K – 6 principal)
- “No negative impacts/influences. I feel that it is essential to know and understand the law and how it applies to teaching. It is something that I believe every educator should have to do and also take a refresher course now and again through professional development.” (Janice, senior high teacher)
- “I can honestly say there have not been any negative impacts or influences on my everyday work as an educator due to my taking a course in Educational Law. If anything, it has given me valuable information and has shed light onto various topics and subjects that I was ignorant of before. (ESL teacher, Catherine)
- “I cannot think of one negative impact from this course, it was such a positive experience! I did the course in the middle of a Newfoundland summer and I didn’t even mind giving up 6 hours weekly of sometimes good weather to attend class.” (Elementary teacher, Danielle)

#### Discussion

It is important to acknowledge the use of the word “potential” in three of the four themes that emerged from responses to research question number two. Potential is defined by the New Illustrated Webster’s Dictionary of the English Language (1992) as “anything that may be possible; a possible development” (p. 759). “Potential” conveys a high degree of subjectivity and, as can be inferred from the sample quotes given above, the degree of that potential is idiosyncratic to the individual educator. In the majority of responses respondents acknowledged the value of what had been learned from the Educational Law courses, in spite of the potentials which were of a negative nature.

The possibility of creating a certain degree of paranoia was obviously a dominant theme in certain respondents’ comments. Considering the nature of the school setting, it is not surprising that fear of negligence and liability can cause educators to become paranoid. Brown (1998) offers valuable insight into this concern:

A little fear is perhaps a good thing because it forces us to take a preventative approach. However, an unreasonable or unfounded fear not only creates stress but also results in limitations upon the programs which are conducted in our schools (p. 101).

Significant throughout many of the responses was the theme of “no negative impacts/influences”. Ideally, this would be the objective of any Educational Law course at both the undergraduate and graduate levels.

### Secondary Questions

The survey also included three secondary questions, two of which asked whether or not Educational Law should be a compulsory course in a Bachelor of Education program and in a Master of Education program (with a concentration in Educational Administration/Educational leadership). The third question asked participants if they had any additional comments they would like to make.

An overwhelming majority of respondents expressed the viewpoint that Educational Law should be a compulsory requirement in the Bachelor of Education program. Comments such as this one from Philip, a substitute teacher in Grade 7 – 12 school, were typical:

This is a vital course to teach anyone who is going to become an educator. The laws both in and outside the classroom is far-reaching and even the most informed citizen cannot know them all. Seeing as this is the job of our future, a career we hope to last 20+ years, it is imperative that we have this knowledge before we step foot in the classroom and not only after going through some awful experience. This course also can shed light on if being a teacher for a career is one we want to and can handle doing.

In the last question on the survey Philip further emphasized the importance of including such a course in a B. Ed. program:

Again, just to reiterate, I think it is an absolute necessity that this sort of course is offered in a B. Ed program. Students coming from various backgrounds may not currently possess the knowledge about the law in and out of the classroom and could find themselves in jeopardy at some point. Having come from a Political Science background I had an advantage here, but not everyone is on top of the law, especially when it comes down to the omnipresence of the Charter! This is an issue that affects all educators past, present and future.

As to whether or not Educational Law should be compulsory in a Master of Education program in Educational Administration/Educational Leadership, there was also an overwhelming consensus in the affirmative among respondents. Comments such as this one from Jonathan, a senior high school teacher, were quite common:

Those who take the Educational Leadership/Educational Administration graduate program often aspire and gravitate towards administrative positions within schools. School administrators represent both the first and last line of defense when it comes to ensuring the safety and well-being of both teachers and students within a school setting. It is imperative that persons in these positions of responsibility have adequate legal education training.

Marion, an elementary teacher, was even more emphatic and somewhat animated in her perspective on the importance of Educational Law to aspiring school administrators:

Absolutely! All future administrators need a course in Educational Law and after they are hired as an administrator they should be mandated to do further training at the local district level. I reiterate that administrators need to be informed and they need the knowledge and expertise from experts in the area of Educational Law. We are seeing more and more these days by way of human rights complaints, court cases, advocacy group actions, parent support groups etc. pressuring educators to make any number of decisions in favor of any one group of students. The world of administration and the decision-making process have become as diverse as the learners in their care. It is crucial to prepare administrators to become good managers, excellent instructional leaders, and strong leaders through a sound knowledge base in Educational Law. It is my strong opinion that all education personnel have a knowledge of educational law to protect the teacher, the student, and to manage the barrage of external influences/pressure that permeate schools today.

The final question in this survey gave respondents an opportunity to provide any additional comments. Although there were several respondents who had nothing further to add, many respondents did avail of this opportunity to further elaborate on how they perceived the importance of a course in Educational Law to both new and seasoned teachers. A sample of those comments are included here for the reader's consideration:

- Some people may argue that an Educational Law course is a waste of time as you can find the literature and learn about the laws yourself. However, I believe that it was a useful tool that has secured my future as a teacher. The course was very practical. Being exposed to hypothetical situations and probable consequences and/or avoidances has made me aware of the importance of educational law as well as my responsibilities as an educator.
- Simply put, educational law courses should indeed be compulsory. The ironic thing about it though, is that you need to do one before you fully realize that fact and as already referenced—ignorance is bliss!
- The course I took in Educational Law was both very useful and enjoyable. We discussed educational law and theory and then analyzed and discussed actual case studies that involved real teachers and students, and real situations where these laws and theories had to be applied to the behaviour of teachers and/or students. We also had the opportunity to discuss our own experiences and ideas and how legal issues came into play. To see how educational law is applied in the real world was a very practical learning experience, and, as a result, I feel that myself and my classmates were much more prepared for life in the classroom and much more aware of the rights and privileges of student and teacher under the law than if we had simply

read about legal educational theory from a text book. I learned a lot from the course I took in Educational Law, more than I have in most other courses.

- I feel that a course in Educational Law is very useful and all students should be required to take it, especially since a teacher has many roles and since the first couple of years can be overwhelming with all there is to learn. By taking such a course, they would have an understanding of what is expected of them so they are aware of what they legally can and can not do. It is important to understand the code of ethics as well which is also discussed in this course as sometimes when you may not know what to do in a certain situation, this is a good guide to follow.
- I would highly recommend that the educational law course(s) be made mandatory in the Bachelor of Education program. I have no hesitation in stating that it was the one course that I thoroughly enjoyed and one that was actually useful in my teaching career.

### **Conclusions**

The data gathered in this study has prompted this researcher to arrive at the following conclusions:

1. Taking a course in Educational Law either at the undergraduate or graduate level has a number of positive impacts/influences on their everyday practice as educators. These include but are not necessarily limited to the following: a heightening of awareness, understanding and sensitivity with respect to the various legal issues confronted by educators in today's schools; the facilitation of sound and responsible decision making when dealing with those issues; the fostering of a certain degree of professionalism; and lastly, the raising of teachers' self-confidence levels.
2. Taking a course in Educational Law could result in a number of negative impacts/influences which might include: the potential for paranoia; the potential to impede/inhibit teacher risk taking; and the potential to increase teachers' stress levels.
3. As a result of their having taken a course in Educational Law, both undergraduate and graduate students perceive Educational Law to be a very valuable and necessary component of their pre-service and in-service education.
4. Undergraduate students perceive that Educational Law should be a compulsory requirement in their Bachelor of Education programs.
5. Graduate students pursuing programs in Educational Administration/ Educational Leadership consider Educational Law a vital component in their preparation to be future leaders and administrators in the K-12 school systems across Canada.

## Concluding Comments

As can be seen from the various commentaries provided in the above text, those former students of Education 4420 and Education 6335 who participated in this study are quite emphatic and, in some cases, rather animated in their endorsement of these courses as valuable components in both the Bachelor of Education and Master of Education (Educational Administration/Educational Leadership) programs.

Unfortunately, as a number of participants pointed out, they did not realize the value and utility of these courses until after having done them and then gone on to become teachers or school administrators. As one participant stated “ignorance is bliss” but we all know that ignorance of the law, in this case, educational law, is no excuse for teachers acting unprofessionally or inappropriately. Such a defense would obviously not hold up in a court of law.

Sydor (2006) most eloquently sums up the importance of including a course on Educational Law in teacher education programs:

When teacher education includes instruction about the legal context of schooling, teachers are better prepared to do their work. They have a better understanding of what is required of them from a legal perspective and are consequently less likely to misstep in their professional duties. Teachers who understand the boundaries of their roles with pupils, parents, colleagues and administrators are less likely to be intimidated by the actions of others and more likely to exercise their authority with reason and perspective. From a practical standpoint, the knowledge that teachers gain in the study of education law contributes to an efficient and orderly functioning of schools because they accept responsibility for their practice as professionals and not simply as employees (p. 936).

Sydor’s comments are congruent with the results of this impact study and it is this researcher’s contention that faculties of education across this land have an obvious duty of care to their students to provide them with the requisite preparation to be true professionals in their everyday practice as educators.

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## APPENDIX A

### EDUCATIONAL LAW: ITS IMPACT ON THE EVERYDAY PRACTICE OF EDUCATORS

#### TEACHER SURVEY

#### PAGE 1

#### SECTION A: DEMOGRAPHIC INFORMATION

Please complete the following:

1. Please check off which of the following Educational Law courses you have completed:
  - a) Education 4420 (Legal & Moral Issues in Education) \_\_\_\_\_
  - b) Education 6335 (The Legal Foundations of Educational Administration) \_\_\_\_\_
 NOTE: If you have done both courses, please check off both.)
  
2. I am currently working as a(an)
  - a) substitute/supply teacher \_\_\_\_\_
  - b) replacement (term) classroom teacher \_\_\_\_\_
  - c) permanent classroom teacher \_\_\_\_\_
  - d) guidance counselor \_\_\_\_\_
  - e) assistant/vice principal \_\_\_\_\_
  - f) principal \_\_\_\_\_
  - g) other (please specify) \_\_\_\_\_
  
3. I am currently working at the following grade levels:
  - a) primary (K-3) \_\_\_\_\_
  - b) elementary (4-6) \_\_\_\_\_
  - c) intermediate/junior high (7-9) \_\_\_\_\_
  - d) senior high (10-12) \_\_\_\_\_
 (NOTE: If applicable, you may check off more than one grade level.)
  
4. The student enrolment of my school is in the following range:
  - a) 025 – 200 \_\_\_\_\_
  - b) 201 – 400 \_\_\_\_\_

- c) 401 – 600 \_\_\_\_\_
- d) 601 – 800 \_\_\_\_\_
- e) 801 – 1000 \_\_\_\_\_
- f) 1001 – 1200 \_\_\_\_\_
- g) 1200 + \_\_\_\_\_

5. I am:
- a) female \_\_\_\_\_
  - b) male \_\_\_\_\_

[Please do not mark in this space: *Survey Number* \_\_\_\_\_.]



*PAGE 3*

3.
  - a) Do you think a course in Educational Law should be a compulsory course in every Bachelor of Education course in Canada? Yes\_\_\_\_ No\_\_\_\_
  - b) Please elaborate on your answer in 3a above:
  
4.
  - a) Do you think a course in Educational Law should be a compulsory course in a Master of Education program in Educational Leadership/Educational Administration in every university across Canada? Yes\_\_\_\_ No\_\_\_\_
  - b) Please elaborate on your answer in 4a above:
  
5. Are there any additional comments/points you would like to make re the usefulness or lack of usefulness of a course in Educational Law in a Bachelor of Education program?

Please use extra page(s) if necessary.  
Thank you for taking the time to complete this survey.

**APPENDIX B**

***EDUCATION 4420 (LEGAL & MORAL ISSUES IN EDUCATION)***  
***EDUCATION 6335 (THE LEGAL FOUNDATIONS OF EDUCATIONAL ADMINISTRATION)***  
**FACULTY OF EDUCATION, MUN**

**Topics:**

1. The Charter of Rights and Freedoms
2. Provincial Education Acts
3. Teacher Collective Agreements
4. Due Process
5. Teacher Liability and Negligence
6. Corporal Punishment
7. Sexual Assault
8. Duty to Report
9. The Youth Criminal Justice Act
10. Teachers' Codes of Ethics
11. Copyright Law
12. Workplace Safety in Schools
13. Educational Policy as a Legal Instrument
14. Legal versus Moral Dimensions of Education

**NOTE:**

Although the list of topics is the same for each course, there is an obvious difference in the treatment of these topics and in the various strategies utilized in each course. At the graduate level (M. Ed.) these various topics are studied in much greater depth. For example, in the graduate course, students do group presentations on real-life case studies. These case studies are also used in the undergraduate course but because of large class numbers, time does not allow such group presentations.