

## Further Study

Knowledge of legalese helps principals understand the laws that govern their schools.

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**W**hen I was in high school, my history teacher always had something for us to do. If we finished our core assignments and special projects, he offered vocabulary lists—then located at the back of our textbooks—for further study. He believed that if we could spend some “free” time digesting words and meanings that were relevant to our curriculum units, it would enhance our understanding of history and, therefore, our performance on upcoming exams.

That strategy is still valid. Although your days are full, you must also commit to further study that can enhance your understanding of your duties and of student and teacher rights and responsibilities. Doing so can make you a more effective school leader. This is particularly true with regard to legal vocabulary and terminology that frequently arise in the school environment.

### A Master Vocabulary List

As you lead your school and provide a safe environment that is conducive to learning, you will inevitably encounter unfamiliar legal terminology and, yes, “legalese.” In that spirit, the following vocabulary words are likely to appear in any book addressing school law basics. Consequently, they are terms you

will want to commit to memory.

**Acceptable use.** Principles guiding the appropriate use of a public computer network by a private individual. In the school setting, an acceptable-use policy typically prescribes appropriate use of the school district’s computers by students and staff members.

**The Americans With Disabilities Act (ADA).** Recently amended to broaden and clarify the definition of certain disabilities, the ADA prohibits discrimination against individuals with disabilities. The law defines “disability” and contains mandates regarding reasonable accommodation.

**De facto.** “De facto” describes a situation that is actual or factual, but not necessarily legal.

**Defamation.** An intentional false communication, either written or spoken, that harms a person’s reputation.

**De jure.** Something that is de jure conforms with the law.

**Directory information.** Legally used in connection with the Family Educational Rights and Privacy Act (FERPA), directory information typically consists of a student’s name, address, and phone number. Directory information is designated as such by the school and generally may be released without advance written

consent of the student or the student’s parent. Usually, a school will give parents notice of what constitutes “directory information” and allow them to opt out of having all or some of the information released.

**Due process.** A constitutional term referring to the fundamental right to have notice and opportunity to be heard before a property right is put at risk to be taken away.

**Duty.** A responsibility or requirement.

**Equal access.** A principle of equality by which similarly situated individuals receive equal opportunities. In the school context, *equal access* often refers to the Equal Access Act, a federal law passed in 1984 that requires federally funded secondary schools to provide equal access to cocurricular clubs.

**The establishment clause.** Found in the First Amendment to the Constitution, the establishment clause prohibits the government from passing laws that inhibit the free exercise of religion. The establishment clause also prohibits the establishment of state-sponsored religion.

**Free and appropriate public education (FAPE).** This term comes from antidiscrimination legislation concerning individuals with disabilities.

**Federal circuit/circuit court.** Federal circuits are the judicial divisions of the US federal court system. The jurisdiction of each the 11 federal circuits covers a specified set of states. (See [www.uscourts.gov/federalcourts.aspx](http://www.uscourts.gov/federalcourts.aspx).)

**The Family Educational Rights and Privacy Act (FERPA).** Recently amended, FERPA outlines required protections and access rules for directory information and personally identifiable information of students.

**Fundamental right.** A right that is guaranteed under the US Constitution. A fundamental right can be expressed or implied in the Constitution. Individuals cannot be deprived of fundamental rights without due process of law (i.e., notice and opportunity to be heard).

**The Individuals With Disabilities Education Act (IDEA).** A federal law that prohibits discrimination against individuals with disabilities in public schools and sets forth guidelines for providing individualized services to students with disabilities.

**Individualized education program (IEP).** An IEP is a plan required under IDEA to regularly outline and specify a course of education to ensure that individual students with disabilities receive a FAPE in accordance with the law.

**Injunction.** A court order prohibiting someone from doing something or requiring someone to remedy a wrong.

**Least restrictive environment.** Under IDEA, an educational environ-

ment where students with disabilities are, to the maximum extent appropriate, educated with students who do not have disabilities. Students with disabilities are only segregated from the regular educational environment when the severity of the disability dictates that regular education could be not achieved.

**Limited open/limited public forum.** A forum where some expressive activities are allowed. Most schools are limited open or limited public forums because they open some part of their facilities to expressive activities (e.g., student clubs).

**Mandated reporter.** An individual charged by law with a duty to report to proper authorities suspected or known abuse of children. Mandated reporter laws vary slightly by state, but they usually deem school officials, teachers, and counselors to have such duties.

**Negligence.** Failure to use reasonable care. Negligence is also considered to be a breach of a legal duty to another person that causes harm or damage to that person.

**Probable cause.** A reasonable belief that a particular person has committed a crime. Typically associated with issues involving searches and seizures.

**Procedural due process.** Notice and opportunity to be heard. If someone is going to be deprived of a property interest, they must first be afforded procedural due process.



**Protected class.** A term that describes characteristics or factors that cannot be targeted for discrimination. Examples of protected classes include race, national origin, age, and sex.

**Public forum.** A forum used by the public for the free exchange of ideas. Restrictions on speech in public forums must serve an important government interest and must also be content neutral.

**Quid pro quo.** “This for that” or “something for something.” This Latin phrase is often used in contractual context and is sometimes used interchangeably with “tangible benefit harassment” to describe a certain type of sexual harassment where an employer uses a tangible job benefit to pressure or harass an employee.

**Reasonable accommodation.** Steps taken to make facilities readily acces-

Analyses in this column are intended to be informative, not definitive legal advice. School leaders should contact their districts’ legal counsel for information about specific legal matters arising in their schools.

sible to and usable by individuals with disabilities. *Reasonable accommodation* can also refer to modifications of job duties or equipment or the provision of certain services that facilitate performance or access for individuals with disabilities.

**Reasonable suspicion.** Specific and articulable facts that would make an ordinary person think that criminal activity is occurring. For purposes of the Fourth Amendment, reasonable suspicion is a lower standard than probable cause.

**Section 504.** A provision in the US Rehabilitation Act of 1973, a federal law that prohibits discrimination on the basis of disability in programs conducted by federal agencies. Section 504 contains specific guidelines for making reasonable accommodations

for individuals with disabilities.

**Sexting.** The act of sending sexually explicit messages or photographs, primarily between mobile phones. In recent years, sexting has become prevalent among school-age students. How to appropriately discipline young people for sexting has also been a key area of debate.

**Sexual harassment.** Unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct of a sexual nature.

**Strict scrutiny.** A test used by a court to determine whether a person of a certain legal classification has been denied equal protection under the law. For the law or the regulation involved to be deemed constitutional under this standard, the government must show a compelling interest in

furthering an important government objective.

**Summary judgment.** A legal ruling made on the basis of the court record when there is no dispute between the parties over the most important (material) facts of the case and where, as a result, one party is entitled to judgment in his or her favor as a matter of law.

**Time, place, and manner restrictions.** The type of reasonable “when, where, and how” limits that may be placed on an individual’s right to speak or express themselves in certain public places.

**Writ of certiorari.** An order used by an appeals court that has discretion whether to review particular lower court case. This writ is familiar to the discretion exercised by US Supreme Court in determining whether to hear (i.e., grant certiorari) a given case.

### Beyond the Words

With basic legal terminology in hand, you are on the pathway to legal literacy as it affects your role as a school administrator. But as with fundamental literacy, school leaders cannot afford to stop at just knowing the basics. To be most effective, commit to constant further study of school law. Doing so will help you to stay informed about education-related laws and to appreciate those laws as tools to establish, redefine, or improve practices and standards that affect your school. **PL**

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