LEGAL RESOURCES FOR
HIGHER EDUCATION LAW:
A REVIEW ESSAY

Monograph
84-3

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University of Houston Law Center/Institute for Higher Education Law and Governance (IHELG)

The University of Houston Institute for Higher Education Law and Governance (IHELG) provides a unique service to colleges and universities worldwide. It has as its primary aim providing information and publications to colleges and universities related to the field of higher education law, and also has a broader mission to be a focal point for discussion and thoughtful analysis of higher education legal issues. IHELG provides information, research, and analysis for those involved in managing the higher education enterprise internationally through publications, conferences, and the maintenance of a database of individuals and institutions. IHELG is especially concerned with creating dialogue and cooperation among academic institutions in the United States, and also has interests in higher education in industrialized nations and those in the developing countries of the Third World.

The UHLC/IHELG works in a series of concentric circles. At the core of the enterprise is the analytic study of postsecondary institutions—with special emphasis on the legal issues that affect colleges and universities. The next ring of the circle is made up of affiliated scholars whose research is in law and higher education as a field of study. Many scholars from all over the world have either spent time in residence, or have participated in Institute activities. Finally, many others from governmental agencies and legislative staff concerned with higher education participate in the activities of the Center. All IHELG monographs are available to a wide audience, at low cost.

Programs and Resources

IHELG has as its purpose the stimulation of an international consciousness among higher education institutions concerning issues of higher education law and the provision of documentation and analysis relating to higher education development. The following activities form the core of the Institute’s activities:

Higher Education Law Library

Houston Roundtable on Higher Education Law

Houston Roundtable on Higher Education Finance

Publication series

Study opportunities

Conferences

Bibliographical and document service

Networking and commentary

Research projects funded internally or externally
INTRODUCTION

Law impacts significantly today on many facets of Education. It is often necessary for the educator to be acutely aware of and understand the nuances of a recent court decision, or a newly-enacted statute or administrative regulation. A person professionally involved in Education may need to know how to find the law in order to know the law. This article will focus upon the basic resources of the law, and is oriented toward the person who has had no formal legal training.

The researcher of American law should always keep two aspects of our legal system in mind. First, federal and state laws co-exist. There are certain areas of law that are determined by state legislatures and courts, and others that are within the purview of the federal courts and the United States Congress. Second, our legal historical roots were transplanted from the British system. Although for over two centuries we have not been under the authority of England's law, we still adhere to the English legal concept of following precedents. This means, in essence, that we follow prior case holdings in present decisions. It is the goal of legal researchers to find cases and statutes from the appropriate jurisdiction -- state or federal -- that address the legal issues of the problem before them. It is often the role of the researcher to reason how these prior cases and statutes in force are the same as, similar to, or distinguishable from the situation at hand.
FINDING THE LAW

The general resources of law can be divided into three broad categories. The first category is called primary sources. The position of importance given to these sources is significant because courts are bound to follow and enforce primary authority when it applies to a given problem. The next category of sources encompasses what are called secondary sources. These sources cannot claim the commanding birthplace of a courtroom or a legislature, but for a variety of reasons, we rely on them to convince judges to accept or reject a particular line of reasoning. The third category is composed of finding tools. These materials are used to locate relevant mandatory or primary authority, and the persuasive or secondary sources. (Please refer to chart -- Appendix A)

PRIMARY/MANDATORY AUTHORITY

Constitutions are the enabling documents of a government that set the structure of the government, the duties and limitations of the branches of government, and the citizenry's relationship to the government.

Statutes are the bills that are voted on and passed into law by the legislature. On the Federal level, and in most states, statutes are collected in a chronological fashion, as well as in a code form. Codes are arrangements of laws by subject.

The United States Code (U.S.C.) is published by the United States government, and is divided into fifty (50) titles or subject divisions. There are also two unofficial, or privately published, versions of the U.S.C. They are: The United States Code Annotated (U.S.C.A.) published by West Publishing Company;

Annotations in codes are abstracts of the cases that have construed (interpreted or applied) the statute. These abstracts are found in the unofficial codes, immediately following the law itself. The other particularly useful feature of the unofficial or annotated codes is the indexing system. There is a well-arranged general index that covers the entire set of books - all fifty (50) titles. The publishers also provide a separate index for each title. These title indexes tend to be more detailed than the general index but will not cross-reference the researcher to related statutes outside of the particular title. There are popular name tables to help the researcher locate a statute that may be well-known by a short phrase or popular name, (The National School Lunch and Child Nutrition Act 42 U.S.C. 1751 et seq. is usually referred to by its popular name -- The School Lunch Act) and cross-reference tables if one only has a Statutes-at-Large (chronological collection of laws) or a public law cite. Each of the unofficial Federal Codes has several volumes dedicated exclusively to the United States Constitution. The Constitution is reproduced, and again, there are annotations of construing cases following each section, article and amendment.

Like the majority of law books, annotated codes are kept current by pocket parts, or paper supplements that slip into a pouch in the binding of the books. Interim separate paper
supplements may also be issued to keep the statutes and their annotations current. The thorough legal researcher should always check the advance sheets (see case law discussion below) that cover court decisions to discover recent cases that may have construed a statute.

The body of case law is made up of the published (reported) opinions of the nation's courts. These opinions are then collected in a chronological order into sets of books, not grouped by subject. Many judicial opinions or decisions are published by a government body, but like the codes, they are also made available by private publishers. Anyone doing legal research should always bear in mind that in law, unofficial or privately published materials usually contain more information when compared to what is available officially. This is true with the codes, and is especially true in case law publishing.

The leading private publisher of judicial opinions is West Publishing Company, which began publishing cases in the 1880's. West divided the United States into seven (7) regions: Atlantic, Northeastern, Northwestern, Southern, Southeastern, Southwestern, and Pacific. Originally, states were assigned to a region and were joined together, not because of the geographic proximity, but because of their common commercial, agricultural or natural resource interest. Today, because the economic base of states may be radically different from what it was nearly a century ago, these regional groupings may seem archaic. For the most part, reported cases from the states' intermediate appellate and highest courts are found in the West National Reporter System.
The decisions of the United States Supreme Court are published by the government in a set of books called The United States Reports. These are the only federal courts for which there is an officially published reporter. The Supreme Court Reporter (West) and the United States Supreme Court Reports, Lawyers' Edition (Lawyers' Co-op/ Bancroft-Whitney) also reproduce Supreme Court decisions. They are unofficial reporters and include abstracts of the decisions and a topical outline of the cases. For extremely current coverage of the Court, legal researchers consult the Bureau of National Affairs' United States Law Week (U.S.L.W). It is in looseleaf format which facilitates the need to be highly current when "court watching." Cases appear here within a week of their decision date, and can be easily added to the looseleaf binder.

The appellate federal courts' decisions are reported in two separate sets of books published by West. The Federal Reporter and Federal Reporter, Second Series cover the decision of the thirteen Federal Courts of Appeals. The designation "Second Series" merely indicates that when the publisher reached a certain number of books in the set, numbering began again. The designation "Second Series" was used for the continuation of the set, and does not imply a new edition or a re-issue of a book; rather, the cases contained in the second series are totally different from those contained in the "first series". One will come across the use of first and second series throughout legal publishing. For example, the case appearing at volume 87, page 645 of the Atlantic Reporter is a 1913 New Jersey Court of Errors and Appeals decision -- Leonard v. Leonia Heights Land Co. The
case found at volume 87, page 645 of the Atlantic Reporter, Second Series is a 1952 Pennsylvania Supreme Court Case -- Pennsylvania Labor Relations Board v. Atlas Casket Co.

The legal researcher is reminded that the Courts of Appeals are the intermediate appellate courts in the Federal Court structure; each state falls within one of the Federal Courts of Appeals circuits. Not all Courts of Appeals decisions are reported. It is possible that a judge will decide not to have an opinion published. This will affect the precedential value of the case since reliance upon unreported opinions is discouraged by most courts.

The federal trial courts are called District Courts. There is at least one in every state and the District of Columbia. It is possible, at this level of court as well, that a judge will decide not to publish an opinion. Since 1932, all reported Federal District Court cases are collected into the Federal Supplement. Prior to this date they appeared in the Federal Reporter.

The West Publishing Company follows a set pattern in presenting all the cases -- state and federal -- that it publishes. Before the exact text of a case, the editors at West supply the researcher with a synopsis of the case and an outline of the legal areas addressed in the case. Short paragraphs ("Headnotes") draw the connection between a general principle of law and its application to the case at hand. The areas of law that comprise the outline of the case are drawn from a pre-existing scheme. This scheme is constantly expanding to reflect changes in law and the creation of wholly new areas of law. There
are over 400 topics and thousands of sub-topics called key numbers in the system. In addition to providing a basic system for outlining cases, these topics and sub-topics are the backbone of the West digests (see discussion below under Finding Tools).

Once a case has been "editorialized," it is reproduced in the advance sheets for the appropriate region of the National Reporter System or in the federal court reporters. Advance sheets are interim paper books containing the cases that eventually cumulate into bound volumes. Usually a case will appear in the advance sheets within six to eight weeks of its decision date. Advance sheets include information on the statutes construed by cases contained in the advance sheets. This section is used to update the annotations to a code. Advance sheets also serve to update digests because they include sections on topics and key numbers from the recent cases.

**Administrative Rules and Regulations**

The next source of primary authority is the rules and regulations issued by administrative agencies. These agencies exist on both the federal and state level, and derive their authority from power that has been delegated to them by the executive or legislative branches of government. On the federal level, administrative agencies exert a strong and pervasive influence on the law, and it is important to know how to research their rules and regulations.

On an annual basis, Federal administrative rules and regulations appear in one of the fifty subject divisions (titles) of a set of books called the **Code of Federal Regulations (CFR)**. This set of books has an index, but topics are so broadly
presented that it is often necessary to consult the outline of
the titles to determine where the problem being researched may
fall. The CFR is kept current by the daily Federal Register
(FR). This publication includes approved agency rules and
regulations, information alerting the public to proposed
measures, announcements of public hearings and meetings, and a
list of sections in the CFR affected by actions covered in the
FR.

Once the researcher has identified and found the proper
title, chapter, part and sub-part in the CFR, it is necessary to
verify that it is still in effect. This is achieved by checking
the annual, quarterly and monthly compilations listing the CFR
sections affected, and checking in the daily list in the FR to
bring the status report totally up to date. Many states publish
administrative codes that, like the CFR, arrange state
administrative actions in a topical fashion. States also may
publish some chronological monitor of administrative activities
in a state "Federal Register" equivalent, as in the Illinois
Register.

Secondary or Persuasive Authority

The next large grouping of legal resources is the secondary
or persuasive sources. They are frequently cited when there is
no primary authority on point, or because of their scholarly
commentary and approach to primary authority. Secondary sources
may be critical in the sense that they analyze the impact primary
authority (cases, statutes, rules and regulations) has on the
existing body of law. They may also be considered "collective,"
since they bring together cases that stand for a similar
proposition of law. When secondary sources take this latter approach, they make an excellent source for locating primary authority on point, and are functioning as finding tools.

Legal encyclopedias are secondary sources that are a good starting point for legal research. Like general knowledge encyclopedias, the legal encyclopedias cover broad areas of law in a short and summary fashion. They serve as background resource for persons who are beginning research in an area that is unfamiliar. They give the researcher the appropriate vocabulary with which to proceed to more sophisticated legal sources that will assume a certain level of expertise.

There are two encyclopedias that are national in scope — American Jurisprudence Second (Am. Jur. 2d) and Corpus Juris Secundum (CJS). Both are successor editions to earlier encyclopedias. Each set is several volumes, and is divided alphabetically into broad legal topics. Both have excellent indices that cover the entire set, as well as a specific subject index for each topic. Legal encyclopedias do not, however, compile case tables for the hundreds of cases that substantiate the text by way of footnote references. Encyclopedias, like most legal resources, are kept current with pocket parts. Many states have encyclopedias that cover the law of that state. An example is Florida Jurisprudence, Second (Fla. Jur. 2d).

**Treatises and Law Reviews**

Once a person has some familiarity with the topic of research, then the logical secondary source to turn to would be either a treatise or law review. Treatises are multi-volume works that cover a broad category of law in an in-depth fashion.
They tend to be both collective and critical. In the discussion of the text, treatise authors compare and contrast case holdings, statutory effects on existing jurisprudence, and policy motivations behind judicial and legislative actions, as well as suggestions for what is considered the best or, at least, better rule of law in a given situation.

Law review and legal periodical articles tend to focus on a particular case or statute in a definite time period. A law review is usually the first resource to provide a scholarly and critical analysis of a case or statute. Law reviews are usually sponsored by a law school, and edited by students. Most reviews are divided into two sections. The first section contains articles written by scholars in a given area of law; these are checked and edited by law students. The section, actually written by students, contains case notes and case comments. Other legal periodicals may be published by a professional organization like the *Journal of Legal Education* published by the Association of American Law Schools or may be limited to a specific area of the law like the *Journal of Legal Medicine*.

Like the legal encyclopedias, treatises and law reviews rely on copious footnoting to direct the researcher to primary sources; however, the treatises and law reviews are more exacting in the process of matching text commentary and analysis to footnoted authority. It is for this reason that the treatises and law reviews hold much greater weight in the hierarchy of persuasiveness of secondary sources.

Hornbooks are streamlined treatises that are used almost exclusively by law students. They are cited on occasion because
their authors tend to be recognized authorities on a subject. However, if one is thoroughly researching an area of law, as opposed to desiring some general background, treatises and law reviews (often times written by these same hornbook authors) are clearly the resources of choice.

Restatements are published by the American Law Institute and are sometimes considered the most persuasive of the secondary source materials. They cover a limited number of topics within the law (refer to chart), but when applicable are excellent sources to help the researcher clarify a doctrine, or use to build a case for a particular point of view. Traditionally, the Restatements were the result of the combined efforts of legal scholars -- academicians, judges and practitioners. Originally, the idea of these sources was to restate and express clearly the legal basis of all cases that addressed the same area of law. Restatements also identified the majority, as well as the minority, perspective taken by a group of jurisdictions. Over the years, the function of the Restatements has changed. Today, the Restatement scholars not only provide a retrospective restating of existing law, but a prospective or predictive commentary on how the law seems to be developing.

American Law Reports (ALR) are a legal resource that straddles the line between the secondary sources and the legal finding tools. They are published by Lawyers' Cooperative/Bancroft-Whitney. The editors of these sets of books select cases that are decided in the state and federal courts if the cases appear to overrule a long-standing precedent, look at an established doctrine in a new way, or address an issue for the
first time. The case is fully reproduced in the volume of the ALR, and is followed by an in-depth review of the point(s) of law covered by the case. Of particular research note is the fact that the A.L.R. editor reviews and compares how the legal issue is treated in selected jurisdictions other than the jurisdiction that had decided the case. This commentary section that follows the case is called an annotation, but it should not be confused with the abstracts of cases that follow statutes in code books, also referred to as annotations.

The American Law Reports are now in four series. In the early 1960's, a separate set of ALR's called American Law Reports, Federal was begun. It covers the federal court cases, while the others are concerned with state cases. The American Law Reports have a system through which the researcher can determine if the annotation to a case still reflects good or current law. There are historical tables in the index that refer to annotations in subsequent ALR volumes. These may either supplement or supercede the material cited in the earlier annotation that was orginally selected for its unique handling of a point of law.

**FINDING TOOLS**

The finding tools are the last major division of legal resources. They are rarely cited in legal documents, but are used to point the researcher toward secondary and primary sources that may be cited. The two law dictionaries that are most frequently consulted for working definitions of legal terms, and for Latin phrases are Black's Law Dictionary (West) and Ballentine's Law Dictionary (Lawyers' Cooperative/Bancroft-
Whitney). However, to determine if a word -- legal or lay term -- has ever been specifically defined by a court, the set of books to go to is *Words and Phrases* (West). It is arranged alphabetically, and for each word or term, provides cross-references to other related words. *Word and Phrases* quotes the definition of the word given by the court(s), and gives the researcher the complete citation to the defining case(s). *State and Regional Digests* often have a words and phrases section (see discussion of digests below) which should be consulted to determine how a particular jurisdiction uses a term.

**Indices** to legal periodicals began at the turn of the twentieth century, just about the same time that scholarly legal periodicals, like the law reviews, began to exert a significant persuasive influence on legal scholarship. Today, there are two predominant legal periodical indices -- *The Index to Legal Periodicals* (ILP) published since the early 1900's by the H.H. Wilson Company, and *The Current Law Index* (CLI) which began in 1980, and is published by the Information Access Corporation. *The Current Law Index* is also available on microfilm, and through on-line bibliographic services (database name: *Legal Resources Index*). Like periodical indices in other disciplines, the legal periodicals indices are arranged for subject or author access. The two legal indices also provide access to periodical articles by case or statute name, and by book title if one is interested in finding a book review. As a general rule, the *Index to Legal Periodicals* focuses its coverage on scholarly law journals, and is loosely based on the *West Digest* outline of law. *The Current Law Index* includes the major scholarly journals, but also covers
periodicals oriented at the practitioner like legal newspapers, bar journals, etc. The Public Affairs Information Service (PAIS), although multi-disciplinary in its scope, gives so much attention to periodicals that have a law orientation that it must be included in any mention of indices to legal literature. It is also available through on-line bibliographic services.

The idea of organizing law into a taxonomic structure has been used since the time of the Roman Empire. For American law, the West Publishing Company's digest system is the most prevalent and pervasive such outline of our jurisprudence. The system began in the late 1800's, when the West National Reporter System started. As cases are decided, editors at West review them for their point(s) of law. These points of law are then assigned to the closest corresponding topic and key number for any area of law addressed in the case. All cases that have been classified under a particular topic and key number will be abstracted and cited in one or more of the components of West's American Digest System.

The purpose of the American Digest System is to provide the legal researcher with a resource for finding all the cases that have involved the same aspect of law. Originally, available American cases from American colonial times through the nineteenth century were collected into the Century Digest. Beginning in 1896 through 1976, every sixth year in the decade a Decennial Digest was issued that included reported cases from the state and federal courts. Due to the ever-expanding number of reported cases, in 1976 it was decided to reduce the Decennials' coverage to a five year span. In the years between the issuance
Legal Bibliography

There are three excellent reference books that identify the resources of American Law, and explain how to do research in American Law. These books are: Cohen and Berring, *How to Find the Law*, 8th edition (West); Jacobstein and Mersky, *Fundamentals of Legal Research* 2nd Edition (Foundation); and Price, Bitner and Bysiewicz, *Effective Legal Research*, 4th edition (Little, Brown). All three resources discuss legal materials in a narrative fashion, and then reproduce sample pages from the sources presented. The Cohen and Berring book may be the best of the three resources for the person who is approaching legal research from another discipline. It is written in a clear and organized fashion, has a good introductory chapter on the legal analysis of a problem, and is subject indexed by both resource title and research topic. If a person is merely interested in an overview of legal resources, and is not concerned with many details and subtle nuances in the use of legal materials, then Teply's *Programmed Materials on Legal Research* (West) will provide an adequate and interesting introduction to legal resources.

The most widely used and recognized book on legal citation style is *A Uniform System of Citation* (The Harvard Law Review Association). It is a small spiral-bound book that sets out the rules for citing primary and secondary sources in American legal writing. There are tables in the "Blue Book", as it is often called because of its cover color, that give specific information for citing state and federal cases and statutes. A similar table appears in the Cohen and Berring book discussed above. One can
The computer can be used to locate the full text of a case if the researcher knows the case cite, only one of the parties to the suit, or the terms that the court used to write the opinion. It can also be used as a finding tool if the researcher does not have a specific case, but has a concept in mind, and wants to find the cases that have been decided in the same conceptual area. Computers are not at the point of being able accurately to predict case outcomes, nor to guide the researcher's analytical skills. At the present time, Lexis and WESTLAW are both limited to finding existing authority for the researcher. They are most effective if one is researching in an area in which a fact word is the key; for example, the name of a particular product, a person, or a university. Since manual finding tools are usually not arranged to access this kind of information, the computer gives the researcher a means of locating authority that was practically irretrievable before the advent of the computer.

The following sample query may be helpful in demonstrating how an issue would be posed to the computer:

A registrar at a university wants to know if he/she can refuse to release a transcript to a student who has not paid charges at the university cafeteria.

The computer query would be typed into the computer like this:

REGISTRAR OR COLLEGE OR UNIVERSITY OR BURSAR W/30 WITHH*LD OR REFUS! OR DEN*** W/20 GRADE OR TRANSCRIPT OR RECORD W/20 STUDENT.

In this query, the "w/" tells the computer how far apart the words in the query may be. The asterisk, placed in the middle of the word, serves as a place holder for a letter. In the sample,
the searcher may want either the word "withhold" or "withheld", and will not have to type two words to achieve both options. The use of the asterisks at the end of the word holds a place for additional letters equal to the number of asterisks used. In the sample, one may want the word "deny" as well as "denied", "denial", or "denies". The exclamation point following a group of letters will create a root word out of those letters, and permits an unlimited number of letters to follow the root. The word "refus!" will generate the words "refuses", refusable", "refused", "refusing", and "refusal". In the sample query used, as would be true of any query, the researcher should try to identify just enough words or terms for the computer to find word matches in the cases. It is never a good idea to try to list every possible word or term which describes your issue, nor it is wise to use words that are very common, words that may have multiple meanings or words that are archaic.

LAW AND EDUCATION RESOURCES

Several publications exist to assist researchers in education in finding legal information. These resources vary as to the level of legal expertise that they assume the reader will have, but for the most part these sources do not assume a legal background and will use the jargon of the discipline of education more than that of law to organize and present their information.

The discussion that follows is an attempt to highlight the most commonly consulted inter-disciplinary Law and Education materials. A key criterion in choosing the sources in this presentation was their continuing and comprehensive coverage of the overlap of law and education. Therefore, resources like
books and pamphlets which address highly specified issues or are set in a given time-frame were not considered for inclusion. The two resources that are the most inclusive in monitoring case law developments in Education are the Speciality Law Digest: Education Cases (Bureau of National Affairs) and the West's Education law Reporter (West Publishing Company).

The West's Education Law Reporter (Ed. Law) began in 1982 and significantly differs from other West reporters. It is by no means merely a collection of case law (primary authority) and has features which fall into all three traditional classifications of legal resources. All reported education-related cases from the United States Supreme Court, the United States Court of Appeals, the United States District Courts, and the state appellate courts are reproduced in full. In addition to publishing the full text of cases that related to law and education, this reporter also serves a secondary source function with a "commentary" section. This section has a number of articles take an approach similar to law review case notes and comments. These articles cover a variety of topics, and are written by people who have an expertise in the interplay of law and education. The Education Law Reporter always includes, for the researcher's reference, the outline of the two most prevalent West Digest topics for education: Colleges and Universities, and Schools. Digests of cases assigned to each of these topics are provided, as well as any other case that may have been categorized in another West topic that is not exclusively associated with Education - Civil Rights; Constitutional law; Appeal & Error; Municipal Corporations; Records; Administrative Law; Arbitration, to name a few.
The advance sheets to the Education Law Reporter include some special features in addition to those found in the bound (or cumulative) volumes of the set. Cases that have been received by West but are not editorialized at the time of the advance sheet printing are listed with a one sentence summary, and enough information is provided to locate the opinion (single copy) of the case. There is also a section in the advance sheet that presents a synopsis of each case contained in the advance sheet. A summary of education grants and awards relating to law, significant Department of Education regulations, and a calendar of Law-education events also appears in the bi-weekly advance sheet.

There is a separate special edition advance sheet for the West's Education Law Reporter that is published in conjunction with the National Association of College and University Attorneys (NACUA). The most significant research feature of this special edition pamphlet is the fact that in 1983, it began incorporating the NACUA College Law Digest into its publication on a bi-weekly basis making possible the perpetuation of NACUA's Exchange of Legal Information program. Through this program "member institutions contribute legal memoranda, pleadings, model statutes or regulations, and other significant legal materials developed by their attorneys and representatives". The documents listed and briefly described in the College Law Digest edition may be ordered. These kinds of practical materials provide invaluable insight into a case, but are often difficult to locate since traditional legal research tools do not cite or collect them.
The Speciality Law Digest: Education Cases is also a hybrid in the categorization of legal resources. It wears the hat of a finding tool but reprints law review articles published elsewhere on issues related to Law and Education. It does not serve as a reporter since case law is not reproduced in full text. This BNA publication began in 1982, and is available in monthly pamphlets which cumulate into bound volumes at the end of the calendar year. Cases from state and federal courts are placed into the digest's outline of education. The researcher should note that the Speciality Law Digest was generated specifically to facilitate easy access by a person familiar with traditional Education topics. This can be contrasted to the West Education outline which is taken from their outline of the entire body of jurisprudence, and reflects more of a general law structure. The Speciality Law Digest may be the finding tool of choice when the researcher wants to focus on Education. The Education Law Digest (West) may be the system of choice when the researcher needs to go out of the boundaries of Education Law and analogize the rule of law in another area to an Education application. The particular features of The Speciality Law Digest: Education cases that will expedite access to information are: a Selected Education Law Bibliography which is generated in addition to the selected reprints of articles; a listing of "research references" included with each topic in the actual digest section; and an identification of relevant cases that are received in slip opinion form with full cites to these cases appearing provided in later monthly pamphlets.
There are two legal periodicals devoted exclusively to Law and Education. The first, *The Journal of Law and Education* is a quarterly publication of the Jefferson Law Book Company. The content responsibility for the journal is under the auspices of the Institute of Law and Education at the University of South Carolina Law Center, as well as the University of Louisville Law School and the University of Oregon College of Education. The lead articles relate to any aspect of law and education (primary and secondary, and higher education), and there is a standing section on labor law in education. The Recent Developments section of each issue highlights cases from all jurisdictions, and gives the reader an abstract of the case and a cite. Cases decided by the United States Supreme Court are particularly prominent and given in-depth analysis. The Law Review Digest Section abstracts education-related law review articles. There is also a regular book review section.

The most unique and useful feature of *The Journal of Law and Education* from a finding tool perspective is the "Selected Survey of Educational Law and Policy Literature". The editor selects materials from the *Current Index to Journals in Education* (a monthly publication of ERIC). Bibliographic cites to these articles are arranged by Education Law topics. This feature of the Journal greatly reduces the time that the educator interested in legal issues would have to spend extracting the law information from the broad Education literature.

*The Journal of College and University Law*, the second law and education journal, is the combined publication effort of the National Association of College and University Attorneys, and the
West Virginia University College of Law. It is published quarterly, and it takes a scholarly viewpoint on legal matters in post-secondary education. Like most law school law reviews, this journal publishes lead articles written by scholars, as well as student works in the form of case notes and comments. Of particular interest is the Notes of Counsel section of the Journal. There the researcher will find selected attorneys' briefs, pleadings, consent decrees and other legal documents of unique value. (The Journal only publishes research on postsecondary education, while the Journal of Law and Education also includes K-12 education law.) As an appendix to Volume 10:2, the Journal published the NACUA Uniform Subject Matter Index for Legal issues Relating to Colleges and Universities. The scope of each topic was defined under its heading. Although the Specialty Law Digest and West's Education Digest are much more detailed, this list of index terms might be a good starting point for organizing vertical files on Law and Education. The BNA or the West topical outlines are preferable if the legal researcher is collecting full-text copies of primary and secondary materials on Law and Education. The BNA outline is the most flexible since researchers can create their own additional topics and still remain within the word/number arrangement. Journal of College and University Law and the Journal of Law and Education are indexed in the Index to Legal Periodicals, the Current Law Index, and the ERIC Index to Journals in Education.

There are several law reviews and periodicals which, although not entirely devoted to Education, should be mentioned as potential resources for analysis of legal issues that may...

Newsletters

The newsletter-type publication is a popular format for education-law information. For the most part, the major functions of the newsletters are to serve as a first alert for cases, and as finding tools. They are similar to traditional legal looseleaf services but differ in two important respects. First, education law newsletters do not usually reprint the full-text of cases, statutes and secondary materials that are presented. Second, many of the newsletters do not assume that the reader is an expert in the law. The NOLPE School Law Reporter, for example, is a monthly publication that selectively chooses cases dealing with education issues. Each issue covers the prior two months. Cases are organized by those involving higher education, and by those of primary and secondary educational import. The subdivisions within these two large topics are rather broad in their scope. The NOLPE Notes serves a "court watching" function but is more useful for its inclusion of meeting and conference announcements, new books, and other

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materials of interest. The "U.S. Supreme Court Docket" is the Notes' most notable feature. It charts the course of cases either decided or awaiting action in the United States Supreme Court (refer to sample page).

WOLPE Case Citations serves as a bibliographic newsletter. Each issue will focus on a particular topic, and give citations to the cases, statutes or secondary sources on that topic. Abstracts and cites are provided with a notation that the full-text of the materials discussed may be ordered from WOLPE. Examples of topics that were recently covered include: Teacher Dismissal: Immoral and Illegal Conduct (7/83); Extracurricular Activities (2/83); and Education Malpractice (4/83).

College Administrations Publications, Inc. produces three quarterly newsletters -- The College Administrator and the Courts, The Schools and the Courts, and The College Student and the Courts. There is very little overlap in the coverage of the three newsletters. Therefore, someone interested in the diverse aspects of education and law would have to subscribe to all of them. The selected state and federal cases that are reported upon are usually those that will be included in other more current publications that follow Education and Law developments. What is unique about these College Administration Publications publications is the manner in which cases are presented. The format used is what is called a Case Brief (not to be confused with a brief presented by parties in court). The pertinent facts of each case are presented. They are then followed by a single sentence that states the issue that the court addressed or decided in the case. The brief continues with analysis of the
court's logic in deciding the issue. The brief for the case is concluded with additional comments supplied by the editor. Here, the editor may raise issues not addressed by the Court, and may cross-reference the reader to other significant cases on point. These publications, because of their format, will be particularly interesting and helpful to a person who has not been formally trained to analyze cases in the "case brief" manner.

Capitol Publications of Arlington, Virginia publishes a variety of newsletters that inform educators about legal events in the courts, in the Congress, in the regulatory agencies, and in the news generally. The two daily publications of note are the Higher Education Daily and the Education Daily. They overlap a great deal in their coverage, and it is doubtful that any individual would have to subscribe to both. These dailies have a "Legislative Update" that is very effective in keeping their readers apprised of bills that are introduced in Congress, Committee reports and hearings, and other Congressional action that is pending.

The Education Daily is the companion publication to the School Law Register. The Register is a selective commercial Federal Register for anyone who must be aware of proposed changes that are occurring in the federal regulatory agencies which will impact upon Education. There is an index for notices, laws, and regulations that is much easier to use than the splintered access offered by the government generated index in the Federal Register. If an educator is faced with the responsibility of monitoring administrative action through the Federal Register,
the companion Capitol Publications present a more efficient and comprehensible option for effectively undertaking the task.

Capitol Publications also issues several bi-weekly newsletters that cover such diverse topics in Law and Education as education of the handicapped, computers, and labor relations. The School Law News is the most generalized of these publications. As is true of most Capitol Publications, legal events are reported in a journalistic style with coverage of cases, Congress, agencies, union activities, lobbyists or interest groups, etc.

The School Lawyer (Education Information Services) is a fortnightly discussion of cases affecting schools. It encapsulates cases using lay terms, and seems to be directed at Educators who are interested in a variety of legal issues but do not need a comprehensive review of all cases decided in a given time period. The School Lawyer gives equal attention to legal problems facing both public and private institutions.

Footnotes, a newsletter published by the Education Commission of the States, is a quarterly publication that abstracts cases and reviews state statutes on a particular point of law—State civil rights law, handicapped students rights, competency testing, etc. It provides a forum for comparing how different states, either through legislation or judicial decisions, have addressed a current legal problem in education. For this reason, Footnotes would be useful to Legislators and lobbyists. Lawyers would be aided by the comparison of jurisdictions because legal advocates use law from several states to try to persuade the courts or legislature in their jurisdiction to follow the lead of sister states.
The School Law Newsletter is an independent quarterly publication whose editor is headquartered in Vernon, Texas. Its orientation and presentation of case reviews is directed at a general, rather than a legal subscriber. The editorial column takes a "do you know" approach identifies the basic legal concerns of school coaches, school superintendents and teachers. Each issue focuses on a specific topic: salary administration, athletics, reinstatement, and search and seizure are recent examples.

NOLPE sponsors two annuals that function as survey publications in the area of Law and Education. The Yearbook of School Law gives an analysis of the prior year's court decision that have affected the "operation, management, and governance of public and secondary, and institutions of higher education in the United States" (from Preface to the Yearbook, 1983). The Yearbook includes "all cases relevant to public schools" during the year that is covered. These cases are selected from the West Reporter Systems. The Yearbooks are divided into broad topics -- Governance; Employee, Torts, etc. A named contributor writes the review of the case law for each topic. The School Law Update, the third NOLPE annual, takes a slightly different approach from that of the other two yearbooks. The Update identifies specialized issues in education and law that were particularly prominent during the previous year that were covered by the Yearbook. The articles will explain how the case law has developed over time, in the specific area discussed. The authors who write the Yearbook sections frequently will write on a related topic in the Update.
The Chronicle of Higher Education is a weekly newspaper of general interest to most educators. It regularly monitors activities in the Federal Agencies and in Congress that affect education. Lead articles will often give an in-depth and critical analysis of how a particular case or piece of legislation will impact on schools, faculty, administrators, and students. One should watch the New Scholarly Books section and the New Books in Higher Education section for publications that address both Law and Education.

CONCLUSION

Issues that impact upon both law and education have become increasingly more prevalent in recent decades. Not only have educators noted a need to be more aware of the legal issues facing them, but lawyers have also found that many legal issues that have been decided in an education context have far-reaching effects into other subject specialities of law.

Research materials have begun to appear in response to the demand for research materials that encompass the overlap of the two disciplines. For the most part, these materials are compiled by commercial publishers. Yet, as interest grows, more professional associations and law schools may begin to sponsor publications that are of a critical rather than of a collective nature. For the present, the resources of law and education are dominated by current awareness types of finding tools that alert subscribers to case law. The existing sources are particularly weak in providing legislative and administrative analysis, and in
directing the researcher to areas of the law that may seem a bit far afield, yet may have a great potential for analogy in the education setting. It is for this reason that the researcher must not only be aware of materials that are directly oriented toward law and education, but must also be familiar with the general resources of law.