

WBA Law in Education Committee

**INSTRUCTIONS AND OUTLINES FOR
LAWYERS FOR CLASSROOM TALKS FOR
LAW DAY AND YEAR-ROUND**

Also available online at http://www.wichitabar.org/law_in_education.htm

2007

**INSTRUCTIONS AND OUTLINES FOR
LAW DAY SPEAKERS**

TABLE OF CONTENTS

General Instructions for Speakers..... 3-4

Law Related Education Web Sites..... 5

Suggestions for Speaking to Younger Grades 6

Lesson Plans for Grades

Kindergarten -- Fourth..... 7

 Lesson Plan I -- Why We have Laws 7

 Lesson Plan II -- Crimes from Mother Goose 8-9

 Lesson Plan III -- Assault and Battery 10-11

 Lesson Plan IV - The Lawyer*s Role in Civil Law Cases “The Candy Bar Contract” 12-13

 Lesson Plan V – “Consequences of Hanging with the Wrong Crowd” 14-16

Grades 4, 5, 6..... 17

 Lesson Plan I -- Recognizing the Need for Government..... 17

 Lesson Plan II -- Pervasiveness of the Law..... 18

 Lesson Plan III – Constitutional Issues Presentation..... 19-21

Middle School Grades 22

 Lesson Plan I -- Symbolic Speech at School..... 22-23

 Lesson Plan II -- Amazing Constitutional Facts..... 24-29

 Lesson Plan III -- Is it Constitutional? 30-32

 Lesson Plan IV -- Could it Really be a Law? 33

 Lesson Plan V -- Vocabulary Match 34-35

 Lesson Plan VI - U. S. Bill of Rights Summary for Middle School..... 36

 Lesson Plan VII -- Classroom Negligence 37

High School..... 38

 Lesson Plan I - Case Studies in Culture and Law..... 38-40

 Lesson Plan II – Copyrights 41-42

Rights and Responsibilities of Public School Students 43-49

Juveniles and the Kansas Juvenile Justice Code..... 50-57

Rights and Responsibilities of Public School Students 58-63

Tobacco and Liquor Laws Affecting Minors..... 64-69

GENERAL INSTRUCTIONS FOR SPEAKERS

1. These instructions are designed to help you when you are asked to speak to a class either for Law Day or at other times during the school year. While the Law Day process differs somewhat, the general principles are the same.
2. **BE SURE TO CALL YOUR TEACHER** as soon as possible after you are contacted or receive your Law Day assignment to confirm the accuracy of the information we have given you and to discuss your presentation. Maximum advance notice and planning is essential to an effective program. Your teacher can tell you what the students have studied and their areas of interest. You are free to negotiate appropriate changes with the teacher. In the event you find a schedule conflict or changed condition which cannot be resolved, try to find a substitute. Please let us know as soon as possible who will be substituting for you by leaving a message at the Wichita Bar Association Office (263-2251). There is nothing more embarrassing to the Bar at large than when a teacher calls and says, "My lawyer didn't show up." **BE PROMPT!**
3. If you cannot speak at the time assigned to you, **PLEASE CALL THE TEACHER** as soon as possible and reschedule a mutually convenient time. If another time is not convenient, please try to find a substitute. If you cannot find a substitute, call the Bar Office.
4. Don't panic. Yes, you can speak on your assigned topic! Whether it is speaking about "Why we have laws" to first-graders or "Use of DNA evidence" to a high school physics class, you do have the ability and resources to make this presentation (what was law school for anyway?). Visiting with the teacher about the level at which the teacher expects the presentation should help alleviate concerns. Law Related Education (LRE) resource materials are available in this packet, in the Law Library, or on the internet. Old Law Day materials are also available on the WBA website. If you are new, call someone who has participated in the past. You will find they have many fun ideas.
5. No matter what your topic, it will be helpful for you to spend a few minutes introducing yourself, describing what you do (using a "typical day" format is effective), and, if you are speaking in conjunction with Law Day, discussing the purpose and meaning of the event. Feel free to talk about what it is like to be a lawyer — especially to 5th graders and older. Speak about the importance of education to you. What subjects helped you the most as a lawyer? Be positive. How did your school experience help to prepare you for your career?
6. Presentations which involve participation by the students, rather than mere lectures, are the most effective and rewarding for both students and attorneys. Use visual aids (books, pleadings, statutes, charts, etc.). Role-playing is fun-- most of all, get the students involved.
7. For Law Day, some packets have pencils for handing out to certain grade levels. If you find out from the teacher that you do not have enough, you may pick up more at the Bar Office. Remember to check in at the main office of the school where you are speaking. If you are speaking at another time during the year but would like to offer pencils to the class, please contact the Bar Office.
8. For Law Day engagements, the Law Day Teacher Evaluation Form should be given to your teacher (please fill in your name) and returned by the teacher to the address shown. The Law Day Attorney Evaluation Form should be completed by you after your presentation and returned to the Law in Education Committee.

WHEN YOU'RE THE LAWYER IN THE CLASSROOM

- § **WORK WITH THE TEACHER.** Work with the teacher before your session. Let him or her know what you plan to do and provide background materials. Ask what the class has been studying and integrate your session with classroom studies.
- § **GET OFF TO A GOOD START.** The first few minutes of a presentation may make or break it. Get the students involved immediately either with a startling statement that grabs their attention or a question they can't help but want to answer.
- § **WORK THE ROOM.** Don't stand in one place; move around. Get the students involved. Encourage participation by your own enthusiasm for the topic.
- § **BE FLEXIBLE.** Be prepared to vary from your lesson plan a bit. When you do generate interest and enthusiasm in the students, their questions and comments may lead you away from your plan. Encourage students' input and allow digression, but look for an opening to get back on track as soon as you can.
- § **TALK TO STUDENTS IN LANGUAGE THEY CAN UNDERSTAND.** That doesn't mean you have to talk down to them. Use some jargon, but explain what each term means. Use examples from students' experiences and analogies they can relate to.
- § **DON'T FAKE IT.** Know your subject. But if asked a question that you cannot answer, don't try to hide the fact from the students. Say "that's a good question. I don't know the answer to it." If you try to improvise an answer the students will know it very quickly, and your credibility will be lost.
- § **BE IN CONTROL OF THE CLASSROOM.** Some students may try to test you. If that happens, the teacher may intervene; then again, he or she may not. Try to handle the situation yourself. Let the students know you are in control of the classroom for the time you are there.
- § **DON'T GET CAUGHT IN THE MIDDLE OF A SCHOOL CONTROVERSY.** This is especially true if the controversy pits students against the administration. Stress responsibility as well as rights when talking about the law.
- § **WATCH THE CLOCK.** As interesting as you will be, most of the students' attention span will parallel the class schedule. When the bell rings, they want out! Know when the class is over and time your presentation accordingly.

From ABA Planning Guide, Law Day, May, 2000

Law Related Education Web Sites and Resources

American Bar Association, www.abanet.org

The ABA website has a wealth of information. Below are some specific sites you may want to visit:

Law Day lesson plans <http://www.abanet.org/publiced/lawday/schools/lessons/home.html>
ABA Division of Public Education, <http://www.abanet.org/publiced/>
National Online Youth Summit, <http://www.abanet.org/publiced/noys/06/home.html>
ABA Lawinfo.org, <http://www.abanet.org/lawinfo/home.html>
National Law-Related Resource Center, <http://www.abanet.org/publiced/resources/home.html>
Technical Assistance Bulletins, <http://www.abanet.org/publiced/tabs.html>
Teaching Resource Guides/Bulletins, <http://www.abanet.org/publiced/resourceguides.html>

Educator's Reference Desk, www.eduref.org

Lesson plans in a variety of subjects including social studies.

Law Focused Education, Inc., www.texaslre.org

The State Bar of Texas' website for law-related education materials.

U.S. Constitution Online, www.usconstitution.net

Everything you want to know about the Constitution. A special kids section talks about constitutional issues in simple language.

KBA Law Wise Newsletter, www.kscourts.org/lawwise/

A newsletter with law related education articles and ideas published during the school year by the Kansas Bar Association.

Library of Congress, THOMAS, www.thomas.loc.gov/teachers

A website with legislative resources for teachers.

National Constitution Center, www.constitutioncenter.org

Website of the National Constitution Center in Philadelphia. Also promotes Constitution Day every September at www.constitutionday.us.

C-SPAN Classroom, www.c-spanclassroom.org

C-SPAN'S website with resources for teaching civics and government.

Justice Learning, www.justicelearning.org/teachingmaterials.asp

A collaboration of NPR's program, Justice Talking, and the New York Times Learning Network.

TIPS FOR SPEAKING TO ELEMENTARY SCHOOL CHILDREN
WBA Law in Education Committee

Most lawyers do not face a roomful of elementary age children on a day to day basis. The following tips provide insight into how young students think, behave, and react.

1. Bring lots of props. Children learn best from real objects, pictures, models, or stories. They have trouble paying attention to descriptions or explanations of things they have never seen, touched, tasted, or experienced. Parts of a real thing, artifacts of a place, souvenirs of an event, and pictures really help them learn. Mock-ups, demonstrations, and models, particularly working ones, make a big hit. You may consider overhead transparencies or video clips. Passing around books or pleading forms will help keep their attention.
2. Kids aren't used to lectures, detailed definitions, and principles. Tell them a story, ideally involving a child of the same age, that demonstrates the information you want to share. Children learn and remember information better when it's presented in this direct way.
3. Keep your talk simple and clear. Children have limited experiences and vocabulary, and lack broad background knowledge. To make sure they understand what you are saying, ask them for feedback with questions like these: "Have you ever been to . . .?" "Who has seen?" Provide plenty of description and examples. You may want to send a list of vocabulary terms to the teacher prior to the visit.
4. Turn your subject into a game or a "play like" activity. Children don't distinguish between work and play, but when they are active and involved, they will "play" very hard at what you might consider work. Dramas and games can be effective ways to involve them in what they are learning.
5. Entertain them with surprises, variety, and tricks to keep their attention. Do not be too detailed; use only a few simple examples to make your points. Ask the teacher when you arrive of any issues or events which have been significant for this class.
6. Understand that children see the world from their perspective, not yours. Their concerns are different. Do not be surprised if they ask questions that are personal or off topic. They may be clues as to where their interests are. Do not be afraid to play it by ear. On the other hand, if a student(s) goes too far or you begin to lose the rest of the group, get back on track.
7. Do not be offended if youngsters are loud, spontaneous and excited. Involved children are enthusiastic children.

Confirm with your teacher before the day of the speech that he/she plans to remain in the room. The teacher should always remain in the room with students. Ask students their names and use their names in your responses.

LESSON PLANS FOR GRADES KINDERGARTEN THROUGH 4TH GRADE

Lesson Plan I: Why We Have Laws.

- A. Discuss the roles of lawyers, judges, and juries in the court system.
- B. Discuss where rules and laws are written -- Congress, State Legislatures, County Commission, City Council, Courts
- C. List on the blackboard some school rules.
 - 1. No running in the halls
 - 2. Quiet in the classroom unless called on
 - 3. No fighting
 - 4. Be on time
 - 5. Other rules the teacher may suggest
- D. For each school rule, discuss:
 - 1. What is the reason for this rule?
 - 2. Is this rule necessary?
 - 3. Can you think of a better rule to replace this one?
 - 4. Should we adopt other rules?
 - 5. What is a fair procedure to adopt new rules or change old ones?
- E. Compare the class rule-making procedures with real life lawmaking procedures.

Lesson Plan II: Crimes from Mother Goose

- A. Abstract: Students use nursery rhymes in discussion of crimes, criminals, and appropriate punishment.
- B. Vocabulary: Write on the blackboard the following words and their definitions, which students will need to know when discussing the nursery rhymes:

STEAL - take something that does not belong to you

PROPERTY - a thing or things owned

CRIME - a very wrong act that is against the law

CRIMINAL - a person guilty of doing a wrong act that is against the law

PUNISHMENT - pain, suffering, or loss from doing a wrong act that is against the law

- C. Recite the nursery rhymes "The Tarts," "Taffy," "Tom, Tom, The Piper*s Son," and "The Moppet." For each, discuss:

1. What was the crime?
2. Who was the criminal?
3. What was the punishment when the nursery rhyme was written long ago?
4. What should the punishment be today?
 - a fine?
 - jail?
 - being grounded?

THE TARTS

The Queen of Hearts, She made some tarts, All on a summer*s day;
The Knave of Hearts, He Stole the tarts, And took them clean away.
The King of Hearts
Called for the tarts,
And beat the knave full sore; The Knave of hearts
Brought back the tarts, and vowed he*d steal no more.

TAFFY

Taffy was a Welshman, Taffy was a thief
Taffy came to my house and stole a piece of beef
I went to Taffy*s house, Taffy was not home
Taffy came to my house and stole a marrow-bone.
I went to Taffy*s house, Taffy was not in
Taffy came to my house and stole a silver pin
I went to Taffy*s house, Taffy was in bed
I took up the marrow-bone and flung it at his head.

TOM, TOM, THE PIPER*S SON

Tom, Tom, the piper*s son,
Stole a pig, and away he run.
The pig was eat,
And Tom was beat,
And Tom ran crying down the street.

THE LITTLE MOPPET (doll stuffed with corn and hay)

I had a little moppet
I put it in my pocket
And fed it with corn and hay.
There came a proud beggar
And swore he should have her
And stole my little moppet away.

Lesson Plan III: Assault and Battery

A. Abstract: Students develop a basic understanding of the terms assault and battery through the use of nursery rhymes and discussions.

B. Vocabulary: Write the following words and definitions on the blackboard:

ASSAULT - placing one in fear of being hurt; to threaten with a stick, stone, or fist

FIGHT - an angry dispute, quarrel, or struggle

BATTERY - harmful physical touching of a person without her or his permission

C. Read the nursery rhyme, "The Kilkenny Cats" (below) and ask what happened at the end of the fight.

D. Read "the Duel" (below) and ask what happened at the end of the duel.

E. Introduce the terms assault and battery. Discuss the following situations and ask the questions below after reading each one:

1. Harry and Nog were playing with blocks. Nog wanted more blocks. Nog picked up his biggest, longest block and said to Harry, "I*m going to beat you up if you don*t give me some more blocks." Harry started to cry.
2. Willie saw a red pencil on Tootsie*s desk and got mad because he thought it was his. He took the pencil and stuck Tootsie with the pencil lead.
3. Lollie bumped into Wig while standing in line for a drink of water. Wig turned around and slapped Lollie.
4. Bo Peep picked up a giant rock and said to Boy Blue, "I*m going to bit you with this rock." Boy Blue got scared and ran away.

F. Ask the following questions after each situation:

1. Could this happen at school?
2. What would happen next?
3. Why did the children act as they did?
4. Do they have the right to hurt or threaten to hurt another person?
5. What crimes did they commit?
 - Nog -- assault
 - Willie -- battery
 - Wig -- battery
 - Bo Peep -- assault
6. What would have happened it they had behaved differently?

THE KILKENNY CATS

There were once two cats of Kilkenny.
Each thought there was one cat too many;
So they fought and they fit,
And they scratched and they bit,
Till, excepting their nails,
And the tips of their tails,
Instead of two cats, there weren't any.

THE DUEL by Eugene Field

The gingham dog and the calico cat
Side by side on the table sat;
'Twas half-past twelve, and (what do you think!) No one nor t*other had slept a wink!
The old Dutch clock and the Chinese plate
Appeared to know as sure as fate
There was going to be a terrible spat.
(I wasn't there; I simply state
What was told to me by the Chinese plate!)

The gingham dog went, "Bow-wow-wow!"
And the calico cat replied, "Meeow" The air was littered, an hour or so,
With bits of gingham
and calico,
While the old Dutch clock in the chimney place
Up with its hands before its face,
For it always dreaded a family row!
(Now mind: Fm only telling you
What the old Dutch clock declares is true!)

The Chinese plate looked very blue,
And wailed, "Oh, dear! What shall we do!"
But the gingham dog and the calico cat
Wallowed this way and tumbled that,
Employing every tooth and claw
In the awfulest way you ever saw-
And, oh! Who the gingham and calico flew!
(Don't fancy I exaggerate-I got my news from the Chinese plate!)

Next morning, where the two had sat,
They found no trace of the dog or cat;
And some folks think unto this day
That burglars stole that pair away!
But the truth about the cat and pup Is this: they ate
Each other up!
Now what do you really think of that!
(The old Dutch clock it told me so, And that is how I came
to know.)

Lesson Plan IV: Civil Law Cases — The Candy Bar Contract

(developed by the Louisiana Bar Association)

(Warning: this lesson plan requires you to bring to class enough candy bars for all students. Also, check with the teacher to see if bringing candy is appropriate and whether any students have allergies.)

- A. Abstract: Students learn about the attorney*s role in contract law and in resolving disputes concerning legal contracts.
- B. Props needed: Enough candy bars for the entire class, some plain and some not.
- C. Props optional: A black crepe-paper “Judge*s Robe,” a sheet of black crepe or tissue paper works well once a hole is cut in the center to go over the child*s head
- D. Classroom setup: Place a desk in front of the class to use as the judge*s bench. Remove one of the candy bars from its wrapper, hiding the candy and making the wrapper appear to be an actual candy bar.

Place on the bench both the empty wrapper and a real candy bar (one of the opposite kind; if the empty wrapper is “with nuts” then real candy bar should be “without”). The students are to think that two real candy bars are on the table: one with nuts and one without.

Keep the remaining candy bars out of sight. Do not let the children know there is more candy.

E. Begin the activity.

1. Assign one child to be the “Judge.” Give him or her the “robe.”
2. Take a “hands up” vote on candy bar preferences (with or without nuts) and divide the class into two groups: “With Nuts” and “Without Nuts.”
3. Have one volunteer from each group approach the “Judge*s Table.”
4. Have the child from the “With Nuts” group stand by the candy bar wrapper without nuts, and the child from the “Without Nuts” stand by the candy bar wrapper with nuts. Do not let either child touch the candy bar wrappers or your empty wrapper will be discovered.
5. Explain that each has received the candy bar that they do not prefer. They may freely talk and work out an arrangement so that each gets the bar he or she prefers.
6. Once an arrangement has been made, have each child pick up the candy bar obtained in the arrangement (not their original candy bar).
7. Ask the “cheated” child to explain how he or she feels.
8. Ask the “not cheated” child to explain how he or she feels.
9. Direct a discussion between the two children to help settle their dispute. Let the children bargain the dispute on their own as much as possible.
10. Call upon the “Judge” to decide the dispute.

F. Follow - up.

1. Briefly tell the students about the attorney*s role in deals and disputes.

2. Explain that people often get into arguments because one person thinks that a situation, not necessarily another person, has been unfair, like the child who had expected a candy bar but got only the wrapper.
3. When someone feels hurt at losing to another what he thinks should rightfully be his, he and the other each hires an attorney to solve the problem. Because lawyers are experienced and know the rules, they can make a deal for the person each represents (the client) and then help decide a fair result if the deal later turns out differently than expected.
4. In the event the lawyers can't agree or persuade their client to agree, the lawyers and clients can go to court and allow a judge to make a decision.
5. Keep in mind the following points as you discuss the exercise with the students:
 - a. Even at a young age, children are able to apply concepts of fairness and common sense, which in general underlie the law, to resolution of disputes.
 - b. Even though events may seem unfair to one party, there is something that can be done to rectify them in a reasonable way.
 - c. Two people can exercise control within the rules, as did the students in negotiating their own deal. Only when the bargain struck was found lacking an expected element (in this case a candy bar) was it necessary to rely on formal "rules" for achieving a fair resolution.

End with distribution of the remaining candy bars to the class.

LESSON PLAN V: “CONSEQUENCES OF HANGING WITH THE WRONG CROWD”

Prepared by Jerry Rogers

- I. Introduction:
 - A. If not already on the desk, have children take out a piece of paper and write their names on a folded piece of paper so you can call on them.
 - B. Discuss a typical day at the office, and show some of the materials you use in your line of work.
- II. Difference between civil and criminal practice.
 - A. Take a few minutes to explain the difference between civil and criminal practice.
 - B. Ask the children to define a crime.
- III. Felony / misdemeanor game.
 - A. Explain the difference between a felony and a misdemeanor.
 - B. List crimes and definitions for those crimes.
 - C. Specify a particular crime from the following list, and have children attempt to identify which category of crime is appropriate.

Felonies	Misdemeanors
Aggravated battery	Theft of less than \$500
Murder	Assault (ask what they think it is)
Theft of \$25,000 car	Criminal trespass
Drive-by shooting	Battery (ask what it is)
Kidnapping	Drag racing on a street

- IV. Role-Play Game. Describe each of the following crimes and discuss with the class.
 - A. Liability for crimes of another.
 - 1. Counsel someone
 - 2. Liable for the crime they commit

3. Liable for other foreseeable crimes (do you know what this means?)
 4. Liable even if the other person (who actually does the crime) lacks capacity.
- B. Conspiracy.
1. Agreement
 2. Overt act in furtherance
 - a. Only way out, say “Nope,” before you or other have done any act.
 - b. For misdemeanor, conspiracy is a misdemeanor; for felony, conspiracy is a felony.
- C. Aiding escape. Assisting escape in any way, including supplying with instruments (always a felony).
- D. Aiding a felon / misdemeanor. Harboring, concealing or aiding someone who has committed one of these crimes.

After you have established the definitions for these particular crimes, then call for volunteers in the class to come up in front of the class to act out scenarios in which the class will identify what crimes have been committed. The children should be given 3x5 cards from which to read their lines.

- E. Crimes of another
1. Kid No. 1: “You know, you should go in the back door at Quik Trip and get us some candy. They never keep it locked.”
 2. Kid No. 2: [Act like you are going in the back door at Quik Trip and stealing candy.]
- F. Conspiracy
1. Kid No. 1: “If we can break the lock on Mr. Anderson’s shed, we can steal his weed eater.”
 2. Kid No. 2: “OK. I’ll go get my dad’s tool box. I bet he’ll have something in there that will work.”
- G. Aiding escape.

1. Kid No. 1: “Hey, the police have my sister’s friend down at the station. She said they need a lot of people come to the station so her friend can sneak out.”
2. Kid No. 2: “OK. Let’s go!”

H. Aiding felon.

Tell children story about Ted. Ted stole a \$25,000 car, so have children identify what type of crime Ted has committed, and if Ted has committed this crime, what crime has been committed by the kids in this role play.

1. Kid No. 1 says to Kid No. 3: “Hey, Ted has to stay at Bill’s house for a while. Don’t tell anyone!”
2. Police Officer: [asking Kid No. 3] “Have you heard where Ted might be?”
3. Kid No. 3 responding to police: “Nope.”

V. Alcohol and cigarettes. Kids find it interesting that mere possession of alcohol or cigarettes is a crime. Be sure to let them know the following:

- A. \$25.00 fine if you have even one cigarette on you.
- B. If you are holding any liquor, \$200 to \$500 fine.
- C. Discuss why we have laws preventing minors from possessing cigarettes/alcohol.

LESSON PLANS FOR GRADES 4th THROUGH 6th

Lesson Plan I: Recognizing the Need for Government

- A. Introduce yourself and write on the blackboard: "I am a lawyer and I am here to help you explore the need for government."
- B. Sit down in the classroom for an uncomfortable few minutes. Do not say anything else and do not answer any questions.
- C. When the class is confused and becoming chaotic, take your position at the front of the room and begin a discussion about rules:
 1. How do you know where to sit?
 2. How do you know what your homework is today?
 3. How did all of you come to have the same textbook?
 4. How did you feel at the beginning of this class when you had no direction, no authority, no one to make decisions?
- D. Discussion Questions
 1. What might happen in the classroom if there were no rules or laws?
 2. What might happen if there were rules and laws, but no one to make sure people obeyed them?
 3. What might happen if there were rules and laws, but no one to settle disagreements about them?
 4. What are 5 rules we should adopt for our classroom? (Keep in mind these rules should benefit all and be accepted by the majority.)

Lesson Plan II: Pervasiveness of the Law

- A. Purpose. To illustrate the pervasiveness of law, that law is both civil and criminal, and that most laws are protective, not punitive.
- B. Method. Describe a typical series of events in an ordinary day. Ask the students to stop you when they believe the law affects the particular activity. At first, you will need to stop and ask questions to help students imagine the impact of law (e.g. “How are time zones established?” or “Are there any laws regarding wearing clothes or their sale or manufacture?” or “Is food quality governed by any health regulations?”) If a student believes the law affects an activity, ask how. Use some of the examples below in structuring your story.
- C. Sample Story. “My name is _____. I live in Wichita. This morning I awoke at 6:00 A.M. I arose, washed my face, dressed, ate breakfast, read the paper, and drove to my office. I read my mail and called some clients on the telephone.”
- D. Examples of Impact of Law.

1. Wake up/turn on light	Electricity rates, utility regulation, building codes
2. Wash your face	Water rates, purity standards, groundwater rights
3. Get dressed	Public nudity laws, clothing regulations (nonflammable, tags for laundering care)
4. Eat breakfast	FDA regulations
5. Read the newspaper, see an ad for a furniture sale	Free press, advertising regulations, safety regulation in furniture manufacturing
6. Get in your car	Traffic laws, fasten seat belts, federal regulation in manufacture of cars, automatic garage door safety regulations
7. Drive to school/work	Traffic laws, roadway construction standards
8. Buy lunch/pay by check	Consumer fraud regulations, truth in lending, bank regulations
9. Stop in furniture store advertising and purchase sofa on credit	Consumer fraud regulations, truth in lending, bank regulations
10. Pick up your paycheck, go to bank	Taxes and withholding, banking regulations, minimum wage
11. Stop at supermarket, buy roast, fruits and vegetables, milk	Meat inspection/FDA, pesticides on fresh produce, milk price supports, regulation of dairy products
12. Pick up prescription	FDA regulation of prescription drugs, patents on drugs
13. Stop to visit friend at his/her apartment	Landlord tenant laws
14. Watch TV while eating dinner	Federal Communications Commission regulation of content of airwaves, free press, safety laws on appliances
15. Salesman comes to door	Consumer protection Act 3-day right to rescind, enforcement of contracts
16. You write a check for house payment and stamp an envelope to send it	Contracts, banking regulations, postal service
17. Turn out the lights and go to bed	Electricity rates, manufacturing regulations for bed/mattress, noise ordinances

LESSON PLAN III: CONSTITUTIONAL ISSUES PRESENTATION

Prepared by Jerry Rogers

I. Introduction:

It is generally a good idea to begin by giving a brief overview of what you do as an attorney, including discussion about how much schooling was involved and briefly describing the bar examination. Kids are often fascinated (if not horrified) that a test can take all day. Also giving a brief overview of your practice and describing the difference between civil practice and criminal practice is helpful. Most children associate attorneys with what they see on television; providing a brief description of what you actually do is helpful.

II. Have samples of state session laws, statutes, regulations and Kansas reports available to circulate through the class. These materials can be used to briefly illustrate the three branches of government, taking time to explain that the legislature in Topeka drafts the laws which are ultimately codified in the statutes, and that some of these statutes contain mandates that the executive branch promulgate regulations, and that if any questions arise as to the legality of the statutes and/or regulations, the judicial branch answers those questions; this helps put the legal process in perspective. The kids are often surprised by how many Kansas reports there are at that time; taking a copy of the session laws for the year in which these children were born also has some interest.

III. Give a brief description of the federal system of government (you can point out that the materials you just circulated are from Kansas and that there are similar materials at the national level) and explain that your focus is going to be on the United States Constitution, and that the Supremacy Clause contained in Article 6 of the United States Constitution essentially trumps state law in the event of a conflict.

IV. Discussion of the United States Constitution.

- A. Ask/discuss why it was drafted (no monarchy, etc.).**
- B. Ask/discuss why it was broken into three basic parts (legislative, executive and judicial).**
- C. Explain the purpose of the Bill of Rights (protection from governmental intrusion), and further explain why the rights granted by the Constitution cannot be taken away by state or federal legislation, only by Constitutional amendment.**

V. Notable amendments to the Constitution.

- A. On the blackboard (or dry erase), list out certain notable amendments to the United States Constitution (stressing that the founding fathers really did not trust government).
- B. Be sure to include a brief discussion about the following amendments: First, Third, Fourth, Fifth (paying special attention to the just compensation clause), Eighth, Thirteenth, Fourteenth, Fifteenth, Sixteenth (children sometimes find it interesting that there was not an income tax until 1913), Nineteenth, Twenty-Fourth and Twenty-Sixth.

VI. Amendment role-playing game.

This portion of the presentation requires volunteers from the audience. These selected volunteers play out what amount to violations and/or illustrations of various Constitutional rights. The children in the audience are to specify which Constitutional amendments have been violated. Each volunteer should be provided a 3x5 card to read their lines. Examples are provided below.

A. Violation of First Amendment (prior restraint):

- 1. Editor: "This is a great story. The Republicrats really messed up this time."
- 2. Reporter: "Yes, I can't wait to get this to press. I have been working on it for months."
- 3. Republicrat: "This is a court order that says you can't publish that story."

B. Fourth Amendment:

- 1. Law-abiding citizen: "It's time for my favorite TV show. I think I'll eat dinner while I watch [wait for police to enter]. What are you doing?"
- 2. Policeman #1: "Should we knock first?" [Wait for policeman #2 to answer, then break down door.]
- 3. Policeman #2: "No, just break down the door. We want to surprise her."
- 4. Policeman #3: [Wait for citizen to say, "What are you doing?"] "We heard you might be doing something illegal, so we decided to stop by and search your house."

C. Fifth Amendment (just compensation):

1. Farmer: “Hello, Governor, I have thought it over and I don’t want to sell the State part of my farm for the new highway.”
2. Governor: “OK then, I guess the State will just have to take your land. We really need that new highway.”

D. Nineteenth and Twenty-Fourth Amendments:

1. Female voter: “I’m here to vote. Where do I go to cast my ballot for President. [Wait] But he just voted and didn’t have to pay a tax.”
2. Polling place worker: “You can’t vote unless you pay the poll tax first.”

LESSON PLANS FOR MIDDLE SCHOOL GRADES

Lesson Plan I: Symbolic Speech at School — *Tinker v. Des Moines Independent Community School District*

A. As an introductory activity, help students brainstorm ways people can communicate to exercise their freedom of speech, *e.g.* talking, using sign language, newspapers, rap music, and movies. Next, discuss the concept of symbolic speech. Examples might include waving or burning flags, wearing hats backwards, or wearing buttons or armbands to communicate.

B. Read the following story of Mary Beth Tinker.

“My name is Mary Beth Tinker. My brother John and I and a few of our friends were outraged during the Vietnam War. We did not believe that the U.S. should be fighting there. Our parents were outraged, too. They expressed their anger in protest marches. Sometimes the marches ended in violence. We wanted students at our school to know how we felt without causing any violence. We decided that wearing black arm bands to school would tell students how we felt. The black arm bands would be a peaceful way of showing our opposition to the war.

“The school officials found out about our plan and passed a rule against wearing the arm bands. They were afraid that there would be violence. We decided to wear them anyway. It was very important for us to be able to express our feelings about the war. In 1965 there was a lot of controversy about the war everywhere. I believe school ought to be a place where you can discuss important issues, especially those that are very emotional.

“Lots of students noticed we were wearing the arm bands. The principal felt nobody would do schoolwork. He was also afraid of fights. There wasn’t any fighting. But we were suspended and sent home until we stopped wearing the arm bands. We had broken the school rule.

“My parents were very upset. They decided to take the school to court. They believed our right to speak against the war was protected by the Bill of Rights. We lost. The court agreed with the school. They said the school had a right to pass this rule to keep discipline in school.

“My parents didn’t give up. They finally asked the Supreme Court to take the case and decide. Did we have a right to wear the black arm bands because the Bill of Rights says we have the right to free speech?”

C. Review the facts of the story

1. What were the Tinkers protesting?
2. Why did Mary Beth and John wear black arm bands to school?
3. Why were they suspended?
4. Why did Mary Beth and John*s parents go to court?
5. What did the court say?
6. Why did Mary Beth and John*s parents ask the Supreme Court to take the case?

D. Discussion for and against, “What do you think?”

1. Arguments in favor of letting students wear their arm bands:
 - a. Students and teachers have a constitutional right to free expression outside of school. They do not

give up this right at the school house door. They have this right in school, too.

- b. The arm bands did not keep the students from doing their work. Students should be able to express themselves as long as there is discipline in the school.
- c. Principals do not have complete power over their students. The parents have power, too. The parents agreed with their children*s actions.

2. Arguments against letting the students wear their arm bands:

- a. People do not have a constitutional right to say whatever they want to say, wherever and whenever they want to say it.
- b. The arm bands kept students from thinking about their studies. They started thinking about the emotional subject of the Vietnam War.
- c. School principals should have as much power as possible to keep discipline and order in their schools. Principals should not take chances. They should avoid trouble.

E. The actual result.

1. Justice Abe Fortas defined the following issues:

- a. Whether the lower court was correct to rule that the principals had a right to suspend the students because the principals were afraid that students wearing armbands would cause a disturbance and other students would not be able to learn.
- b. Whether the principals* fear of a disturbance was enough to limit the students* constitutional right to freedom of speech (in this case, symbolic speech) which is guaranteed by the First Amendment.

The Supreme Court’s decision:

Justice Fortas said that students and teachers do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. He also said that the principals had the right to control the conduct of the students and make sure that the learning of students was not interrupted by any disturbances.

However, he thought that, in this instance, there was no disruption and that the principals only were concerned that there “might “be a disturbance. In order for the principals to prevent the students from exercising their freedom of speech, the principals would have to prove that wearing armbands would “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.” Justice Fortas concluded that the facts did not show that there was a “substantial disruption or material interference with school activities.” Therefore, the students should not have been suspended from school.

Lesson Plan II: Amazing Constitutional Facts

Complete the problems on the left. Write each answer on the line provided within each sentence. Read the sentence to find an amazing fact about the Constitutional times.

1. 1,000 squared	The population of the United States at this time was under _____ people.
2. 5 squared + 1	The youngest delegate was Jonathan Dayton of New Jersey; he was ____ years old.
3. 10 squared	In some places tea cost more than ____ dollars a pound.

4. Square root of 36	Among the delegates, _____ had signed the Declaration of Independence.
5. Square root of 25	_____ of the delegates to the Convention had signed the Articles of Confederation
6. 4 squared + 3	_____ of the delegates never showed up for the Convention for personal reasons and lack of support of the idea.

7. 20 squared + 10 squared	After the Constitution was inscribed on parchment, the Convention ordered _____ copies of it to be printed.
8. 50 squared - 563	The name of the gifted scribe of the embellished Constitution was forgotten until _____.
9. 12 squared + 17	James Madison gave _____ speeches, second only to Gouverneur Morris.

10. 9 squared + 4	_____ newspaper articles written about the Constitutional events later became known as <i>The Federalist Papers</i> .
11. Square root of 4	When George Washington arrived at the Convention, he was escorted by three generals, two colonels, and _____ majors.
12. 7 squared - 6	The average age of the fifty-five delegates was a little over _____.

13. Square root of 81	Of the delegates, 26 were college graduates; ____ were foreign born.
14. 6 squared - 21	Virginia governor, Edmund Randolph, submitted the Virginia Plan -- a ____-point plan -- to the delegates.
Bonus: In #8 above, who was the scribe?	

Bonus: In #8 above, who was the scribe?

Answer key:

1. 1,000,000
2. 26
3. 100
4. 6
5. 5
6. 19
7. 500
8. 1937
9. 161
10. 85
11. 2
12. 43
13. 9
14. 15

Bonus: Jacob Shallus

Editor's Note: This lesson plan, found at <http://www.educast.com/arc/lp/soc/97122270>, asks why Jacob Shallus name was not remembered until 1937, but does not give the answer. If you know, please advise.*

Lesson Plan III: Is It Constitutional?

1. Point out to students that citizens of a free and democratic society have many rights and freedoms. The Constitution of the United States protects many of our most important rights and freedoms.
2. Explain to students that a law could be passed that would take away some of these rights. If this happened, the Supreme Court would say that the law was unconstitutional and could not be enforced. When a law is passed, it is very important to ask if it is constitutional.
3. Tell students that many of our most basic rights and freedoms are protected by amendments to the Constitution. Reproduce and distribute the three shown below. Read the original wording of each amendment to the class (the original wording is not given in this handbook).
4. Discuss each amendment with students. Remind them that a law or action taken by the government cannot contradict an amendment. If it does, the law or action can be challenged and reversed.
5. Read to students the list of laws below that might be passed or actions that might be taken by the government. Discuss whether it is or is not constitutional, and identify appropriate amendment number.

(continued)

IS IT CONSTITUTIONAL?

1. A state passes a law that allows men to vote, but not women.
2. The government does not like a man*s ideas, so it does not allow him to make a speech in public.
3. A woman accused of a serious crime wants a jury trial, but the government says it doesn*t have enough money for such a trial.
4. A town does not like the religious beliefs of a certain group, so it forbids it from building a place in which to worship.
5. A man accused of a serious crime refuses to give evidence against himself.
6. A state passes a law that allows women to vote at age 18 but says men must wait until they are 21 before they can vote.
7. The government orders a newspaper to stop printing editorials that criticize the government too much.
8. A person*s house is in the way of a proposed highway expansion. The government offers the owner a fair price for the house.
9. A group of people are arrested because they wrote to Congress saying that they did not like a certain law.
10. A woman receives a parking ticket. She insists on a jury trial. The government says she doesn*t need a jury because her offense is not a serious one.

Answer key:

1. No (19th)
2. No (1st)
3. No (5th)
4. No (1st)
5. Yes (5th)
6. (Skip)
7. No (1st)
8. Yes (5th)
9. No (1st)
10. Yes (5th)

AMENDMENTS

First Amendment: The government may not interfere with freedom of religion, freedom of speech, freedom of the press, or the right to meet together with other people in a peaceful way or to send petitions to the government.

Fifth Amendment: People accused of serious crimes have the right to a trial by jury. They can't be forced to give evidence against themselves. A person's life, freedom, and property can't be taken unfairly. If the government must take a person's property for public use, the owner must be paid a fair price for it.

Nineteenth Amendment: No citizen, man or woman, may be denied the right to vote.

Lesson Plan IV: Could It Really Be a Law?

Read the following laws/ordinances to the class and decide for each why it might originally have been enacted. What public interest might it have served in days gone by? Is it needed today? How could it be improved?

1. In Oregon it is against the law to pump your own gas.
2. In Georgia it is against the law to slap someone on the back.
3. In Detroit it is against the law to fall asleep in the bathtub.
4. It is against the law to have a frog jumping contest in Boston.
5. In Ann Arbor, Michigan, it is against the law to walk on any public street, alley, or park.
6. In New York it is a misdemeanor to arrest a dead man.
7. A woman may not drive while wearing a bathrobe in California.
8. It is against the law to imitate criminals in Florida.
9. In Oklahoma it is against the law for three or more dogs to meet on someone*s property without a permit.
10. In Michigan it is against the law for a barbershop to be open on Sundays.
11. It is against the law anywhere to tell your children to go to bed.
12. It is against the law to dance to the “Star Spangled Banner.”
13. It is against the law in Michigan to participate in sports on Sundays — the fine is \$5.00.
14. It is a crime to blow your nose in public in Maine.
15. In Michigan there is a law that says drinking cups must be available at public drinking fountains.

Lesson Plan V: Vocabulary Match

Reproduce and distribute:

1. ____ Executive	A. An institution that makes, interprets and enforces laws at the federal, state and local levels.
2. ____ History	B. To refuse to admit or approve.
3. ____ Majority	C. A written idea for a new law.
4. ____ Judicial	D. The rules used to govern a country, state or social group.
5. ____ Compromise	E. This branch of government enforces the law.
6. ____ Laws	F. A permanent written record of the past.
7. ____ Legislature	G. A settlement of differences; give and take.

8. ____ Amendment	H. An amount greater than half of the total.
9. ____ Bill	I. This branch of government interprets the law.
10. ____ Constitution	J. Supreme law of the land, exists to provide order and protect people's rights and welfare.
11. ____ Veto	K. A change added to improve an existing law.
12. ____ Government	L. This branch of government makes/creates laws.

Lesson Plan VI: Bill of Rights

The Bill of Rights sets forth the rights with which government cannot interfere. Passed by Congress September 25, 1789; ratified by the States December 15, 1791.

Amendment I: Freedom of religion, separation of church and state, freedom of speech, freedom of the press, freedom of assembly, freedom to petition the government to right a wrong.

Amendment II: Right to keep and bear arms.

Amendment III: Right not to be forced to allow soldiers to stay in one*s home in time of peace or in time of war unless procedures described by law are followed.

Amendment IV: Freedom from unreasonable searches and seizures of self, home, papers, and belongings; no issuing of warrants for search or seizure without probable cause.

Amendment V: Right to due process of law when accused of a crime; freedom from being tried for the same crime twice and from being forced to testify against oneself.

Amendment VI: Right to a speedy, public, and fair trial, including a lawyer, when accused of a crime.

Amendment VII: Right to a trial by jury in civil cases with a claim of more than \$20.

Amendment VIII: Right to fair bail; freedom from excessive fines and cruel and unusual punishment.

Amendment IX: Guarantee that the listing of rights in the above amendments or elsewhere in the Constitution would not be taken to mean that these were the only rights people had.

Amendment X: Provision that powers not given to the United States by the Constitution or not prohibited from the states would stay with the states or the people.

Lesson Plan VII: Classroom Negligence

By Kelly Rundell

Introduction: Explain briefly that the class is going to decide a civil comparative fault case like a jury might have to do. Then give a narrative of the facts.

Facts: (assign students in the class to roles #1-10, teacher and student teachers are # 11 & 12). All facts occur just before school starts in the morning as the students are coming to class.

- 1 _____ bicyclist in parking lot that #2 swerves to miss (Optional)
- 2 _____ while driving his car in school parking lot, hits #3*s car
- 3 _____ looks out window and sees his car being hit by #2, runs out
- 4 _____ sees #3*s car being hit and #3 running, trips #3 (Optional)
- 5 _____ just finished eating banana; drops banana peel when #3 loses balance and bumps him
- 6 _____ slips on banana peel that #5 dropped and grabs #7*s desk while falling
- 7 _____ the Pepsi can on #7*s desk spills when #6 grabs it
- 8 _____ slips on Pepsi and falls; cuts hand on the buckle of #9*s backpack which is in the aisle
- 9 _____ left backpack in the aisle
- 10 _____ laughs at the whole scene & embarrasses #8 (Optional)
- 11 _____ student teacher who would not let #8 leave after class starts, #8 bleeds all through class (Optional)
- 12 _____ teacher who routinely allows food and drink in the classroom, although it is against the school*s rules, which all the students know.

Other Facts: #8 is seriously injured, has to have stitches, and later needs surgery to fix a tendon. Scars badly. Misses finals and graduation. School lets #8 take tests later, and he/she graduates. But while taking the tests, he/she misses first 4 days of full-time summer job as waiter at Yia Yia*s, so he/she loses job and ends up with minimum wage, part-time job at K-Mart.

The cost of repairing the damage to #3*s car is split equally by #2*s insurance company and #1*s parents.

#8 and parents sue everyone and school to recover. Medical bills (\$10,000), lost wages (\$2,500) and pain and suffering (\$250,000).

Group Discussion: Ask the class to assess comparative fault and award damages. They should talk about the factors a jury would consider and also may need to determine how to resolve differences among jury members.

LESSON PLANS FOR HIGH SCHOOL

Lesson Plan I: Case Studies In Law And Culture

Case 1

A Colorado county court must decide a custody dispute between a Hmong husband and wife. The case began six months ago when the couple, who had been married for 10 years, separated. At that time, the court placed the five children in the temporary custody of the father, who was then living with his extended family in the same county. The mother was allowed frequent visitation, as established by the court.

Two months after this temporary custody was established, the mother fled with her five children to Minnesota, where her own family lives. After a warrant was issued for her arrest by the Colorado county, the mother returned to Colorado. Speaking through an interpreter in her court testimony, the mother claimed that her children had been abused and neglected by their father and his family; she felt forced to flee with her children to her own family in Minnesota, unaware that she was breaking the law by doing so.

The mother*s attorney has argued that the mother*s guilt in taking her children to Minnesota must be resolved in the context of Hmong culture and that the judge must understand that Hmong define themselves in terms of their clan. The father*s attorney has argued that the father put his faith in the American legal system and had been abiding by the temporary custody arrangement; the father*s rights had been violated.

The court must decide on two issues; the mother*s guilt in breaking the custody guidelines and the final custody arrangements for the children.

How do you think the judge should rule on these two issues and why? Present a verdict and an explanation for your decision.

Case 2

A California county judge must rule on a misdemeanor charge of cruelty to animals against two Cambodian refugees. The two refugees, both in their thirties, admitted to killing a German Shepherd for food. They said that eating dog meat was a common practice in their country, and that they had no idea that killing a dog for food would be illegal in the United States. Penalty for the misdemeanor charge is a fine and/or up to one year in jail.

How do you think the judge should rule on this case and why? Present a verdict and an explanation for your decision.

Case 3

While riding his bicycle home from English class in the early evening, Yongnian Shi, a visiting researcher from the People*s Republic of China, was stopped by a police patrol car.

“You had better have a light; it*s better for your safety,” the officer said. He then issued a ticket. The ticket seemed a fearful thing to Shi. Shi explained to the officer that in China, where bicycles are the principal means of transportation, a night-light is optional. The officer replied that if Shi had something to explain, he could do it in court. This order was equally fearful to Shi; if the Chinese government calls someone to court, it is a very serious matter. Shi did appear in court on the traffic violation.

How do you think the municipal court should decide on this case? Present a verdict and an explanation for our decision.

Case 4

The customary folk remedy for headaches among some Vietnamese is to massage the back and shoulders with the serrated edge of a coin. This practice leaves bruises that are easily recognizable by children's teachers.

A teacher noticed bruises on the shoulders of one of her Vietnamese students and called in social workers to investigate for child abuse. Teachers and social workers are obligated to follow the law and investigate any allegation of child abuse. The social worker filed child abuse charges against the Vietnamese family.

How do you think the court should rule on this case? Present a verdict and an explanation for your decision.

Case 5

The U.S. Supreme Court must decide whether the U. S. Constitution's guarantee of religious freedom gives worshippers the right to sacrifice animals in ritual ceremonies. The Miami suburb of Hialeah enacted a law to stop Caribbean immigrants from killing chickens, pigeons, doves, ducks, goats, sheep, and turtles in the practice of an ancient religion called Santeria. The religion originated in Africa and is widely practiced in Nigeria today. The religion was brought to the Caribbean by slaves and remained underground for 400 years. Cuban refugees brought the religion to the United States in the early 1960s.

The Church of Lukumi Abaalu Aye argues that the city and the state of Florida permit the killing of animals for many secular reasons (*i.e.*, food, recreational hunting and fishing) so the ban on religious ceremonial sacrifice as practiced by Santeria followers is wrongful government infringement on its religion. The minister says that his religion should be institutionalized as other faiths have been so that its practitioners can become part of mainstream America. In Florida, his defense claims, religion is almost the only unacceptable reason for killing an animal.

How do you think the U.S. Supreme Court should rule on this case and why? Present your decision and an explanation for it.

Case 6

Ainossau Foutuua, a Samoan immigrant, was stabbed to death outside the door of his home in Hawaii by Tonny Williams, also a Samoan. Williams was charged with murder and jailed until his trial. Tonny Williams' family responded to the crime by initiating an ancient traditional Samoan ceremony called an ifonga. In this ceremony, two Samoan high chiefs (one of whom was Tonny's father) went to the Foutuua family home covered with treasured Samoan fine mats and gifts of food, money and handicrafts. Through the ceremony, the Williams family placed themselves at the mercy of the Foutuua family and asked for forgiveness. The Foutuuas accepted the offer and gave something in return. They agreed that they would not testify against Williams at his trial. The prosecutor's office was not pleased about this decision. Without the eyewitness account of the stabbing, Williams would serve about ten years in prison rather than a life sentence.

Should the U.S. legal system recognize the ifonga as a legitimate form of handling criminal cases when both parties are Samoan? Why or why not?

ACTUAL CASE RESULTS

Case 1

The Colorado county district judge admitted that he was stymied by the cultural and language barriers posed by the case. The judge appointed a separate attorney to represent the five children in the custody case. After hearing testimony of all parties, as well as psychologists, the court decided that the custody case should not be settled by the judicial system but by their own people. The case was referred to the Laotian Family Counsel, a mediation group of Laotian and Hmong located in cities where large numbers of Southeast Asian refugees have settled. Charges against the mother for breaking the custody arrangement and leaving the state with her children were dropped, with admonitions that she must familiarize herself with the laws of the state and country where she resides.

Case 2

The California judge dismissed all charges against the Cambodian refugees for misdemeanor cruelty to animals. In his decision, the judge stated that killing an animal for food is not illegal unless done in a cruel way; the evidence did not indicate that the men had inflicted any unreasonable pain on the animal. The judge supported his decision by citing common practice in slaughterhouses and on farms.

Case 3

Yongnian Sin's American host accompanied him to municipal court. The judge and prosecutor listened to Sin's story and agreed to cancel the \$20 fine. Later, the chief of police wrote a letter to the American host thanking him for the explanation and saying that, for an officer on duty, a simple warning to Sin would have sufficed. Friends of Sin heard about the episode and bought him a light.

Case 4

When prosecutors learned of the Vietnamese folk remedy for headaches, child abuse charges against the family were dropped.

Case 5

Although the trial court and appellate courts both upheld the right of the city of Hialeah to limit the killing of animals as part of religious ceremonies, the U.S. Supreme Court rules in favor of the church, which had argued that the city's laws unfairly singled out an unpopular minority faith in violation of the First Amendment's Free Exercise Clause.

Case 6

As a result of the ifonga, the Foutuua and Williams families have a very good relationship. The Williams family did not expect the Foutuua family to refuse to testify. The families do not see the ceremony as thwarting the criminal justice system. Courts in Hawaii and California have looked for ways to integrate the ifonga into the criminal justice proceedings and serve both systems of justice. While the practice is not uniformly accepted, the courts have "accepted the ifonga as a strong cultural tradition of the Samoan community" as part of a plea bargaining process.

Lesson Plan II: Copyrights

What is a copyright?

Copyright isn't new. It is a right rooted in English common law and discussed in the U.S. Constitution. George Washington signed the first U.S. copyright law. The law was designed to encourage creativity and scholarship by allowing students and educators limited rights to use copyrighted materials for research and in classes. Copyright is commonly referred to as a property right, hence the term "intellectual property."

Who is a copyright owner?

Anyone who has ever put a work into a "tangible medium" owns the copyright to that work immediately upon creation. Registration of the material is not required for a work to be protected under copyright law, and no notice of copyright is required. Teachers and students own copyrights on their own works, just as publishers and authors own copyrights to their published and unpublished works.

What does a copyright owner own?

Owning a copyright entitles the owner/creator with five exclusive rights:

- X Right of production — making copies in paper or in media. Copies do not have to be exact.
- X Right of distribution — giving copies of the work to others either by gift, rental, sale, loan, etc.
- X Right of adaptation — creating derivative works or changing the medium of a work.
- X Right of public performance/Right of public display — these two rights cover the use of materials in situations beyond those of a family and its immediate circle of friends.

What on the Internet is copyrighted?

Determining what is copyrighted isn't as difficult as it may seem. Items marked as copyrighted are obviously covered, but so are items not marked as in the public domain. For over a dozen years, notice of copyright has not been required in order for a work to be protected by copyright. One cannot rely on the absence of a copyright symbol to indicate material that can be used freely.

How does one know if an item is copyrighted?

If it has a notice of copyright, one can easily determine copyright status. If a work has no copyright notice but has no public domain notice, one must assume that the work is copyrighted. Even materials that grant educators permission to use the works in the classroom as still covered by copyright and any use beyond the stated permitted uses must be licensed.

Can teachers use all Internet materials for free?

Under the fair use exemption to the copyright law, some materials may be used in class. Materials in the public domain would be "free" to use in any manner. No permission need be sought. Some copyrighted material may have rights granted for school use. These materials may only be used in the manner prescribed in the permission.

What may you legally do with copyrighted material found on the Internet?

While there is no legal precedent for Internet materials, some guidelines can be extrapolated from print and non-print rules. One can probably view copyrighted Internet information live on your screen or out of real time cache (replaying a page already viewed in this session) as long as the use is directly related to the day's lesson for the specific class. One could probably make a single hard (paper) copy for your personal file or use in teaching. One can

create links to images or documents on web pages since the actual document or image isn't moved from its home location. One can also argue for whatever the fair use exemption will permit.

What may students do legally with copyrighted material found on the Internet?

Students can view copyrighted material on the computer screen or out of real time cache. They can make a single, hard copy for their personal use and education or create links to them on web pages. A student can use limited amounts of copyrighted materials in work-done for class (only), not for extracurricular activities or public or commercial use. Students must acknowledge the sources of the copyrighted materials they use. Students must also retain all copies of products created, so teachers and librarians cannot legally create anthologies of student products if the products contain copyrighted materials used under the fair use exemption.

How does one get permission to use copyrighted Internet materials?

Use mail-to links on web pages to ask permission. If you know you will use material more than 4 or 5 days ahead, you are obligated to request permission. Keep any permissions on file in case of questions.

How long can one use materials?

Fair use allows a single use without express permission and only if there isn't enough time to ask. Subsequent uses **MUST** have written permission.

Why even bother?

Theft of intellectual property is treated the same as the theft of physical property, with significant monetary and statutory penalties. From an ethical point of view, librarians should model ethical use of materials for teachers and students. Additionally, copyright holders are increasingly defensive of their copyrights, even to the point of hiring "bounty hunters" to track down violators. Copyright is federal law, and it deserves to be respected and followed. It's the right thing to do.

RIGHTS AND RESPONSIBILITIES OF PUBLIC SCHOOL STUDENTS

Prepared By: Kathryn Gardner
Martin, Pringle, Oliver, Wallace & Swartz, L.L.P.
2000

I. COMPULSORY EDUCATION

With certain exceptions, Kansas law requires every parent or person who acts as a parent and has control over or charge of any child who has reached the age of seven years and is under the age of eighteen years to require that child to continuously attend school each year.

- A. Students must attend either a public school or a “private, denominational or parochial school taught by a competent instructor for a period of time which is substantially equivalent to the period of time public school is maintained in the school district in which the private, denominational or parochial school is located.” K.S.A. § 72-1111.
- B. Exemptions from the Kansas compulsory attendance requirements are possible for children sixteen or seventeen years of age (under certain circumstances) and for exceptional children (except for gifted).
- C. Kansas law also contains a special provision for children who are members of a recognized church or religious denomination that objects to a regular public high school education and who offers a regularly supervised program of instruction meeting certain requirements. K.S.A. § 72-1111(f).
- D. Children attending public school cannot be required to participate in any activity which is contrary to their religious teachings if their parent files a written statement with the proper school authorities requesting that the child be excused and stating the reason for such request. K.S.A. § 72-1111(e).
- E. Violation of the compulsory school attendance law can give rise to criminal charges against a student*s parent and/or a finding in juvenile court that the child is a “child in need of care.” K.S.A. § 72-1113(e), (f)
- F. Law enforcement officers may temporarily detain and assume temporary custody of any child subject to compulsory school attendance laws who is found away from home or school during school hours without a valid excuse. K.S.A. § 38-1527(d). The law enforcement officer is authorized to deliver the child to the child*s parent or custodian, to the school in which the child is enrolled, or to any location designated by the school in which the child is enrolled to address truancy issues. K.S.A. § 38-1528(g).

II. DISCIPLINE OF STUDENTS

The Board of Education of every school district in Kansas is authorized to adopt rules which govern the conduct of all persons attending such schools, and to provide specific procedures for their enforcement. K.A.R. § 91-15-1.

Select disciplinary rules need not be as detailed as the criminal code, given the school*s need to be able to impose disciplinary sanctions for a wide range of unanticipated conduct disruptive of the educational process. Spencer v. U.S.D. 501.23 Kan. App. 2d 737 (1997). The state*s interest in control and safety of students and authority to control the educational setting is so broad that restrictions for the purpose of maintaining discipline and promoting an environment conducive to education may be permitted in public schools which would not be permitted in another context. Matter of C.A.J., 259 Kan. 854, 915 P.2d 62 (1996).

- A. Corporal Punishment.

In Ingram v. Wright, 430 U.S. 651 (1977), the United States Supreme Court held that corporal punishment does not violate the cruel and unusual punishment clause of the Eighth Amendment of the United States Constitution or the Due Process Clause of the Fourteenth Amendment, even if it is administered without notice and without a hearing. A student*s substantive due process rights will be violated when corporal punishment is arbitrary, capricious, or unrelated to the goal of maintaining an atmosphere conducive to learning. Hawerkamp v. U.S.D. No. 380, 689 F. Supp. 1055 (D. Kan. 1986).

A student*s substantive due-process rights may also be violated by corporal punishment which shocks the conscience. See Garcia v. Miera, 817 F.2d 650(10th Cir. 1987).

School districts with corporal punishment policies usually require prior notice such as a written warning, a witness to the administration of corporal punishment, and an explanation of the reason for the punishment given to the child*s parent.

B. Suspensions -- Generally.

Any public school student may be suspended for any of the following:

1. willful violation of any published regulation for student conduct adopted or approved by the board of education;
2. conduct which substantially disrupts, impedes or interferes with the operation of any public school;
3. conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity;
4. conduct which, if the pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult;
5. conduct at school, on school property, or at a school supervised activity which, if the pupil is an adult, constitutes the commission of a misdemeanor or, if the pupil is a juvenile, would constitute the commission of a misdemeanor if committed by an adult; or
6. disobedience of an order of a teacher, peace officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

K.S.A. § 72-8901.

C. Short Term Suspensions.

Short term suspensions are those not exceeding ten school days. K.S.A. § 72-8902(a)(1), (2). Short term suspensions may be imposed without a hearing if the presence of the student endangers other persons or property or substantially, disrupts, impedes, or interferes with the operation of the school. K.S.A. § 72-8902(b)(2). In that event, written notice within twenty-four hours after the suspension, plus an informal hearing no later than seventy-two hours after the suspension, is sufficient.

For other short term suspensions, students are entitled to notice of the charges and an informal hearing on them prior to suspension. The hearing must include the following procedural due-process requirements: the right of the student to (a) be present at the hearing, (b) be informed of the charges, (c) be informed of the basis for the accusation, and (d) make statements in defense or mitigation of the charges or accusations. K.S.A. § 72-8902(b)(1). A student who fails to attend the hearing waives his or her right to such a hearing.

School advisers are entitled to rely on traditional sources of actual information in matters of discipline, and are not limited to “evidence” of a sort that is admissible at trial because prompt action is necessary. West v. Derby U.S.D., 260,23 F. Supp. 2d 1223 (D. Kan. 1998).

D. Long Term Suspensions

A long term suspension triggers due process rights, including written notice of the proposal to suspend, which notice must specify the charges for the proposal and must state the time, date and place for the formal hearing. The hearing is to be conducted no later than ten days after the date of the notice.

The due process rights to be afforded to the student and/or parent at the formal bearing include: the right of “counsel” (any person chosen by the student to represent him or her); the right of the parent or guardian to be present; the right to see written reports of the testimony of witnesses against the student; the right to confront and cross-examine witnesses who appear in person; the right to present witnesses in person or by affidavit; the right to testify in his or her own behalf; the right to a fair and impartial decision based on substantial evidence, a record of the hearing to be paid for by the school district; and the right to appeal. K.S.A. § 72-8903.

E. Expulsion/Weapons* Possession.

Under the Weapons Free Schools Act, K.S.A. § 72-89a01 *et seq.*, school boards are required to adopt policies which require the expulsion of students for a period of not less than one year for the possession of a weapon at school, on school property, or at a school-supervised activity. 1999 changes to the Act expand the definition of a “weapon” to include, among other items, metal knuckles and switchblades, and remove the prior exception for a rifle “intended to be used solely for sporting, recreational or cultural purposes.” Boards are also required to report weapons offenses to the appropriate law enforcement agency, and if the student is a juvenile, to the Secretary of S.R.S. K.S.A. § 72-89a02(a), (f).

The Kansas School Safety and Security Act, K.S.A. § 72-89b01 *et seq.*, requires reports to be made to the appropriate law enforcement agencies by any school employee who knows or has reason to believe that any of the following acts has been committed at school, on school property, or at a school-supervised activity:

1. conduct constituting the commission of a felony or misdemeanor;
2. the possession, use or disposal of explosives, firearms, or other weapons (K.S.A. § 78b03(b)(1));

Persons who have a duty to report and fail to do so are subject to criminal penalties (K.S.A. § 72-89b04(a)).

Additional internal reporting requirements apply to school employees having information regarding potentially dangerous students. 1999 Session Law, Chapter 116, House Bill 2191. Student expulsions for weapons violations have been upheld against challenges of substantive and procedural due process violations. James v. U.S.D. 512, 899 F. Supp. 530(D. Kan. 1995), and vagueness, Spencer v. U.S.D. 501, 23 Kan. App. 2d 737 (1997).

F. Suspension or Revocation of Driving Privileges.

A new provision of the law mandates that students who have been expelled or given a long term suspension for possession of a weapon; possession, use, sale or distribution of an illegal drug or controlled substance; or behavior likely to produce serious bodily injury, shall have their driver*s license (if any) suspended for a period of one year. Additional provisions penalize such students who are not yet eligible to drive, or who have had driving privileges revoked, suspended or canceled for other reasons. 1999 Session Laws, Chapter 124, Senate Bill 38.

III. SEARCHES OF STUDENTS

A. General Principles.

Students are entitled to Fourth Amendment protection against unreasonable searches and seizures in public schools, but not all searches of school students, their property, or their lockers are prohibited. Because the school has a legitimate need to maintain its learning environment, search warrants and probable cause are not required for school searches. Instead, courts balance the need for authorities to search against the invasion of privacy, and apply a standard of reasonableness based upon all circumstances. New Jersey v. T.L.O., 469 U.S. 325, (1985). In considering the reasonableness of the search, the courts will take into account the age of the student, the sex of the student, and the nature of the suspected infraction. Singleton v. B.O.E. U.S.D. 500. 894 F. Supp. 386 (D. Kan. 1995).

For purposes of determining the reasonableness of a search, the state, in its role as schoolmaster of children, may exercise a greater degree of supervision and control than it could over adults. Veronica School District 47J v. Acton, 515 U.S. 646, (1995); see Edwards for and on behalf of Edwards v. Rees, 883 F.2d 882 (10th Cir. 1989) (relaxed Fourteenth Amendment standard applies in cases involving school searches).

B. Specific Applications

1. Urinalysis Testing.

The Fourth Amendment is not violated by a school district*s requirement that all student athletes submit to urinalysis testing. See Vernonia School Dist. v. Acton, *supra*. In reaching that result, the Supreme Court focused upon the decreased expectation of privacy of student athletes, the relative unobtrusiveness of the search, and the severity of the need met by the search. Strip searches are, however, likely not justifiable in a school setting. See Doe v. Renfrow, 475 F. Supp. 1012 (N.D. Ind. 1979), modified, 631 F.2d 91(7th Cir. 1980), cert. denied, 451 U.S. 1022 (1981).

2. Student Lockers.

Because lockers are school property, students have only a limited expectation of privacy in their contents. School officials have an inherent right to inspect lockers on high school property. State of Kansas v. Stein, 203 Kan, 638, 456 P.2d 1 (1969); see Singleton v. B.O.E. U.S.D. 500, 894 F. Supp. 386 (D. Kan. 1997).

3. Students* Cars.

Cars driven by students on school property may be searched by school authorities upon reasonable suspicion that the car contains contraband or other evidence of violation of law or school rules. See Coronado v. State, 806 S.W.2d 302 (Tex. Ct. App. 1991) (report of attempted drug sale from another student). A school principal cannot be liable for a search of a car on school property by a police officer where the principal, though present, did not participate in the search. Janes v. U.S.D. 512, 959 F. Supp. 1407 (D. Kan. 1997).

4. Purses, Bags, Jackets, Persons.

A pat-down search of a purse, bookbag, or pocket is usually permissible upon reasonable suspicion that it contains contraband or other evidence of violation of law or school rule. Reports from other students can give rise to such suspicion. New Jersey v. T.L.O., *supra*.

A search of middle school student was based on reasonable grounds where an adult stated that the student had stolen a large sum of money and had been in trouble with the police. The search, conducted in the principal*s office with only two male administrators present, was not excessively intrusive, despite the student*s removal of all clothes but his underwear. Singleton v. B.O.E. U.S.D. 500, 894 F. Supp; 386 (D. Kan. 1997).

5. Drug Sniffing Dogs.

United States District Courts have split on the opinion of whether canine searches for drugs in schools violate the Fourth Amendment. See, e.g., Horton v. Goose Creek Independent School Dist., 690 F.2d 470 (5th Cir.), cert. denied, 463 U.S. 1207(1982) (lockers and perhaps unattended cars can be checked by drug sniffing dogs, but student population cannot); Doe v. Renfrow, supra (sniffing of students by dogs upheld).

IV. FIRST AMENDMENT FREEDOMS

A. General Provisions

Students do not shed their constitutional rights at the schoolhouse door, and may exercise their right to freedom of expression unless that right materially and substantially interferes with the requirements of appropriate discipline or conflicts with the rights of others in the school. Tinker v. Des Moines Independent Com*v School Dist., 393 U.S. 503 (1969); see Bethel School Dist. No. 403 v. Fraser, 478 U.S. 675 (1986) (no First Amendment protection to a vulgar and sexually explicit campaign speech at a student assembly).

First Amendment protection applies to actual speech and to symbolic speech on a matter of public concern, such as a black armband conveying a particularized message. See Connick v. Meyers, 461 U.S. 138 (1983); Tinker, supra.

B. Literature/Symbols

1. Student-Sponsored Newspapers

- a. School officials are entitled to impose reasonable restrictions on the speech of students, teachers and other members of the school community in school-sponsored newspapers written and edited by a high school journalism class. Hazelwood School Dist. v. Kuhlmeier, 44 U.S. 260.
- b. School authorities have the right to regulate or prohibit student expression that is part of a school-sponsored activity if such control is reasonably related to legitimate pedagogical concerns. Hazelwood, supra. Un-sponsored student expression cannot be regulated unless the schools can reasonably predict on the basis of specific facts that such expression will substantially interfere with the appropriate discipline of school operations. Id.; Tinker, supra.
- c. In response to Hazelwood, the Kansas legislature enacted in 1992 a Student Publications Act to protect the liberty of the press and student publications. The act states that student expression should not be suppressed solely because it involves political or controversial subject matter, although the number, length, frequency, distribution and format of student publications may be regulated. The act does not protect publication of matter that is “libelous, slanderous or obscene or matter that commands, requests, induces, encourages, commends or promotes conduct as defined by law as a crime or conduct that constitutes grounds for suspension or expulsion or that which creates a material or substantial disruption of normal school activity.” K.S.A. § 72-1506(c).

2. Library Materials

Where a school board orders removal of a book from the school library based on board members' personal preferences rather than established policy for review of objectionable material, and without discussion of less restrictive alternatives or access, First Amendment rights of students are violated. Case v. U.S.D. 233, 908 F. Supp. 864 (D. Kan. 1995).

3. Student*s Drawings

First Amendment rights of a student suspended for drawing a Confederate flag in class were not violated where school officials had evidence that such drawing would likely lead to disruption of class, and school policy against racial harassment and intimidation specifically prohibited possession of Confederate symbols in school. West v. Derby U.S.C. 260,23 F. Supp. 2d 1223 (D. Kan. 1998).

C. Dress Codes

1. Hair Length

A Fourteenth Amendment challenge to a dress code regulating hair length failed because it was found to meet the rational basis test. Blame v. Board of Education, 210 Kan. 560, 502 P.2d 693 (1972). In 1971, the Tenth Circuit found that hair length requirements did not implicate any constitutional rights, and therefore dismissed the case. Freeman v. Flake, 448 F.2d 258 (10th Cir. 1971).

2. T-Shirts

Courts have recently upheld dress codes aimed at eliminating gang symbols; see, e.g., Olesen v. Board of Education, 676 F. Supp. 820 (N.D. 111. 1987), prohibiting statements advocating the use of alcohol or illegal drugs or denigrating school authority, see Gano v. School Dist. No.411, 674 F. Supp. 796 (D. Idaho 1987), and restricting vulgar or disruptive speech, including sexual innuendo, see Pyle by and through Pyle v. South Hadley School Committee, 801 F. Supp. 157 (D. Mass. 1994) (First Amendment basis).

D. Religious Expression

1. Bible Clubs

Pursuant to the Equal Access Act, 20 U.S.C. 4071 et seq., public secondary school students have the right to conduct meetings during non-instructional time at public secondary schools without discrimination on the basis of the religious, political, philosophical or other content of their speech, as long as the school allows other noncurriculum-related groups to so meet. See Mergens v. Board of Education of Westside Community Schools, 110 S. Ct. 2356 (1990) (upholding constitutionality of E.A.A.). 20 U.S.C. 4071 et seq.

2. Distribution of Literature

Policies barring out-of-class distribution of literature "of a religious nature" by students or requiring prior approval by school administrator have been held unconstitutional under the First Amendment. See, e.g., Johnston Loehner v. O*Brien, 859 F. Supp. 575 (M.D. Fla. 1994) (policy allowing unrestricted discretion by school superintendent to reject religious materials violated requirement that state neither advance nor inhibit religion); Hedges v. Wauconda Community Unit School District No. 118, No. 92-3779 (7th Cir. 1993).

3. Moment of Silence

K.S.A. § 72-5308a authorizes the teacher in charge of each public school classroom to observe, at his or her option, a brief period of silence at the opening of each school day. Such a period of silence is not to be conducted as a religious exercise, but is to be used for silent prayer or silent reflection on the activities of the day. The Kansas Attorney General has opined that because both the statute itself and the legislative history of this and subsequent bills indicates a legislative purpose which is not exclusively religious, the statute is not invalid under the holding of the United States Supreme Court in Wallace v. Jaffree, 105 S. Ct. 2479 (1985). Kan. Atty. Gen. Op. No. 85-83.

Juvenile Law

Prepared by Laura Shaneyfelt

MISCELLANEOUS LAWS THAT IMPACT STUDENTS

1. Curfew—Wichita

Age	Weeknights	Weekends
15 and under	11 p.m.-6 a.m.	Midnight-6 a.m.
16 & 17	Midnight-6 a.m.	1 a.m.-6 a.m.

Exceptions to Curfew

- With parent or guardian
- Parent or guardian sent minor on an emergency errand
- Attending official school, church, or city activity—with no detours on the way home
- Working or going to and from work
- On sidewalk next to minor’s house or minor’s neighbor’s house (if neighbor didn’t complain)
- Attending, or going to and from, an activity involving exercise of free speech, freedom of assembly, or free exercise of religion.

Penalty

- Child gets a warning from the police officer.
- After a warning, the parent can be fined from \$50-\$500 with a recommendation that the juvenile have to perform community service.

2. Alcohol

It is unlawful for anyone under 21 to possess, consume, obtain, purchase—or try to do any of these things—any beer or alcohol.

Furnishing alcohol and beer to a minor is a misdemeanor offense.

Unlawfully hosting kids under 18 who are drinking alcohol or beer is an offense.

It is illegal for anyone (any age) to transport an open container of beer or alcohol in a car.

	FINE	DL	JAIL	OTHER
Minor in possession of Alcohol—if under 18 years old	In county--\$200 mandatory minimum In Wichita— 1 st : \$100 mandatory minimum 2 nd : \$200 mandatory minimum 3 rd : \$250 mandatory	Mandatory suspension for 30 days	Up to 1 month	Judge may order 40 hours public service & education program

	minimum			
Minor in possession of beer—if under 18 years old	In county--\$200 mandatory minimum In Wichita--\$100 mandatory minimum if at club or bar; \$25 if not at club or bar	Mandatory suspension for 30 days	Up to 1 month	Judge may order 40 hours public service & education program
Transportation of open container	In county—up to \$200 In Wichita—If alcohol, up to \$200; If beer, up to \$500	In county: Mandatory suspension for 1 year if more than 1 conviction in 5 years. In Wichita: Mandatory suspension for 3 months on 1 st conviction; mandatory suspension for 1 year if more than 1 conviction in 5 years.	In county or Wichita: Up to 6 months	
Unlawful use of DL to buy alcohol	1 st : Mandatory minimum of \$200—up to \$500 2 nd : Up to \$2,500	1 st : Up to \$2,500	1 st : Up to 1 year	1 st : Mandatory minimum of 100 hours of community service

3. Tobacco

No tobacco products can be used in school buildings.

It is illegal for minors under 18 years of age to purchase or possess—or try to do either of those things—cigarettes or tobacco products. The court can fine minors for this, and the police can take the cigarettes away from them

4. Impact of conduct on driving privileges

If any student, 13 years or older, is found to be:

- (1) in possession of a weapon, *or*
- (2) in possession of a controlled substance or illegal drugs, *or*
- (3) has engaged in any activity which resulted in, or was substantially likely to have resulted in bodily injury to others, *while*
- (4) at school, on school property, or at a school-supervised activity,

the student's drivers license—or the student's ability to get a drivers license—is automatically suspended for one year.

The student has a right to request a hearing, after receiving notice of the suspension, but the hearing is just to determine whether there are reasonable grounds to believe that one of the above things happened.

SUMMARY OF THE KANSAS JUVENILE JUSTICE CODE

A. Purpose of Juvenile Justice Code

“The primary goal of the juvenile justice code is to promote public safety, hold juvenile offenders accountable for such juvenile’s behavior and improve the ability of juveniles to live more productively and responsibly in the community.”
K.S.A. 38-1601.

B. Who is a juvenile and juvenile offender?

1. A person 10 years of age or older but less than 18 years of age.
2. Juvenile offender means a person who commits an offense while a juvenile which, if committed by an adult, would constitute the commission of a felony or misdemeanor.
3. Exceptions:
 - a. Traffic infraction--14 years or older
 - b. Fish & Game violations--16 years or older
 - c. Persons under 18 years of age who previously have been convicted as an adult (in Kansas or another state) or sentenced under the extended jurisdiction juvenile.

C. Time limitations

Most offenses have a two-year statute of limitation, but sex offenses have a five-year statute when the victim is under 16, and there is no time limit for first and second degree murder.

D. Juvenile taken into custody

1. A juvenile can be arrested when an officers sees him/her committing an offense; the officer has an arrest warrant; the officer has probable cause to believe that an arrest warrant exists; or the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute a felony or a misdemeanor and the juvenile will not be apprehended, or evidence would be lost or the juvenile may cause injury or harm to self or others.
2. Arrest procedure:
 - a. The alleged juvenile offender will be taken without unnecessary delay to an intake and assessment worker. (JIAC)

- b. When the juvenile is less than 14 years of age, no in-custody or arrest admission or confession resulting from interrogation may be admitted into evidence unless the confession or admission was made following a consultation between the juvenile and the juvenile's parents, guardian or attorney.

E. Juvenile detained

1. A juvenile taken into custody can be kept up to 48 hours—not including weekends and legal holidays—from the time the initial detention was imposed, unless the court determines after a hearing within the 48-hour period, that further detention is necessary.
2. If a juvenile is held in jail, the detention hearing has to be held within 24 hours.
3. The hearing can be waived or a bond may be set. The judge will consider facts such as whether the juvenile is wanted in other jurisdictions, the severity of the alleged offense, past records of failures to appear, history of criminal and/or violent behavior, and any reasons to believe that the juvenile might flee.

F. Right to counsel

Every juvenile has the right to counsel, at every stage of the proceedings. Every juvenile is qualified to have a court-appointed attorney, but may retain private counsel, if he/she so desires.

G. Duty of parents and others

A parent or guardian has to go to all hearings with the juvenile. The responsible adult will receive a summons.

H. Prosecution as an adult

1. The code presumes that juveniles in the stated age range will be treated as juvenile. In some instances, however, the State may file a motion requesting adult prosecution. This can occur at any stage of the proceedings.
2. The presumption shifts to a presumption of an adult for those juveniles who meet these criteria:
 - a. 14, 15, 16 or 17 years of age at the time of the offense or offenses alleged in the complaint, if any such offense would, if committed by an adult, be an off-grid offense, a person felony, a nondrug

- severity level 1 through 6 felony or any drug severity level 1 or 2 felony; or
 - b. the offense was committed while in possession of a firearm; or
 - c. The juvenile is charged with a felony after having been adjudicated or convicted of a felony in a separate prior juvenile proceeding and the convictions occurred before the new crime was committed.
- 3. Factors the court will consider to determine whether they should authorize adult prosecution:
 - a. The seriousness of the alleged offense and whether community protection is aided by prosecuting the juvenile as an adult;
 - b. whether the alleged offense is committed in a violent, aggressive, premeditated or willful manner;
 - c. whether the alleged offense is directed against property or person, greater weight being given to physical injury to persons;
 - d. number of pending, unadjudicated offense under the juvenile code;
 - e. previous history of juvenile, including whether juvenile has been adjudicated under the code and the nature of the offense as adjudicated;
 - f. sophisticated and maturity of juvenile, considering environment and general behavior;
 - g. whether available facilities and programs are likely to result in the juvenile's rehabilitation;
 - h. whether the community interests will be better served by a criminal prosecution.

4. Procedure

A hearing is held at which the State must show “substantial evidence” that the juvenile ought to be prosecuted as an adult. If the court agrees, the juvenile case is dismissed and the case is refiled in adult court. If the juvenile is found to be guilty of a lesser charge, he/she reverts back to being treated as a juvenile. This is only true after a trial—not if he/she enters a plea to a lesser offense.

I. Diversion (aka Immediate intervention programs)

- 1. Each county or district attorney may adopt a policy and establish guidelines for an immediate intervention program by which a respondent may avoid prosecution as a juvenile offender.
- 2. By statute, diversion cannot be offered to any juvenile if:
 - a. He/she has been previously adjudicated to be a juvenile offender.
 - b. A violation of an off-grid crime.
 - c. Sex-related offenses.

- d. Person crimes.
- e. Most drug offenses (with the exception of marijuana or alcohol).
- f. Where the respondent was illegally possessing a firearm or using a deadly weapon in the commission of such crime.

J. Jury trials

Although the law provides that a judge can order a jury trial for a juvenile who is charged with what would be a felony if he or she were an adult, this never happens.

K. Adjudicatory procedures

1. Timing

Cases are to be heard “without unnecessary delay.” There’s no speedy trial provision, as in K.S.A. 22-3402, so the court just determines whether there was unnecessary delay and prejudice.

2. Hearings are generally open to the public, but can be closed if the juvenile is under 16 years old and the court determines that having the hearing open to the public is not in the juvenile’s best interest.

3. Rules of evidence apply.

L. Sentencing alternatives

Some of the options available to the court, in any combination, are:

- 1. Probation or supervised probation for a fixed period of time, subject to conditions the court deems appropriate.
- 2. Placement in the custody of a parent or other suitable person.
- 3. Placement in the custody of a youth residential facility or in a secure facility.
- 4. Placement in the custody of the Juvenile Justice Authority (state custody).
- 5. Commit the juvenile offender to a sanctions house (juvenile detention facility) for a period no longer than seven days. Following such period, the court shall review the placement. Commitment to a sanctions house shall not exceed 28 consecutive days. An offender over 18 years of age or less than 23 years of age may be committed to a county jail.
- 6. Commit the juvenile offender to a community-based program.
- 7. Commit the juvenile offender to a juvenile correctional facility as provided by the placement matrix.
- 8. Place the juvenile offender under a house arrest program administered by the court.
- 9. The court can order the juvenile offender and parents to seek certain counseling and other related services.

10. Restitution.
11. Impact driving privileges.
12. Fines up to \$250 per offense.

M. Sentencing juvenile offenders

1. The court now uses a sentencing grid, or matrix, to arrive at a specific term of commitment.
2. Good time credit is available to any terms of confinement.
3. Modification of the sentence is possible. The commissioner may seek this from the court.
4. The juvenile may seek a departure and the court may depart if it finds substantial and compelling reasons to do so.

N. Expungement of records

Most juveniles are eligible to have their records expunged once they are 23 years old or when two years have elapsed since the completion of the sentence or of probation, if they've not been convicted of any other crime and the court find that their behavior warrants expungement. Different rules apply to sex offenders.

O. Impact on criminal history

1. If a conviction occurred before July 1, 1993:
 - a. Class D and E felonies decay at age 25
 - b. Class A, B & C felonies do not decay
2. If a conviction occurred after July 1, 1993:
 - a. Decay at age 25
 - i. Non-drug SL 6-10
 - ii. Drug SL 4
 - iii. Misdemeanors
 - b. No decay
 - i. Non-drug SL 1-5
 - ii. Drug SL 1-3
 - iii. Person felonies

**CLASSROOM PRESENTATION
ON JUVENILE LAW—
RIGHTS & RESPONSIBILITIES OF JUVENILES**

These materials are not intended to be a detailed substantive outline of juvenile law, but rather a plan for presenting information to upper elementary through middle school students concerning juvenile law issues.

The administrators at the juvenile detention center are very good about allowing speakers to borrow items from the center to use in presentations. Seeing the actual clothes that the kids wear, the toiletry packets, etc. seems to be a big hit with the students. Call a few days in advance and ask if you can pick up some items to show a class.

I. Preliminary Matters

A. Introduce yourself and explain what it is that attorneys do.

Tell them how long you went to school to become a lawyer.
How long have you practiced law?
What is it that you do to help people?

B. Explain purpose of Law Day

C. Give them your ground rules

If questions during your presentation are ok, tell them that.

You may need to remind groups of younger students about the difference between telling you a story and asking you a question.

Explain that you might not know all of the answers to their questions, but if you don't know you'll find out the answer and let the teacher know what you learned.

II. What is juvenile law?

A. Law are rules of society. (Skip this for middle school kids)

Just like classroom rules and rules at home. Have them give examples of rules and why the rule exists and what happens if the rule is broken. Compare this to laws and the legal system. They'll probably give examples of both civil and criminal wrongs. Explain the differences (making whole/punishment & protection...\$\$\$ or orders prison).

**B. Juveniles are kids at least 10 years old and not yet 18 years old.
Except for traffic--**

C. 2 divisions of the Juvenile Law system

1. Child in need of care (CINC)

These cases are brought to protect kids whose parents aren't able to care for them for some reason—they are in trouble themselves, or they have an addiction, or have hurt the kids in some way. The kids in these cases have done nothing wrong but the law steps in to get them in a safe place until their parents can take care of them themselves.

2. Juvenile offenses

These cases are brought because the police believe that the juvenile has committed a crime. The philosophy of juvenile court has shifted in the recent years. It used to be that the court wanted to really help juvenile offenders. The legislature has changed the focus from helping the juveniles to protecting society and punishing the offenders. Juvenile offenses are treated much more like adult offenses than they were in the past. Gangs/guns have caused legislators to be much more unforgiving now because of the need to protect the rest of society.

III. Theories of Criminal Liability

Discuss with the students some examples of a situation that demonstrates that you can get into trouble just for helping someone else commit a crime and that this is one reason it's important to choose friends wisely. Here's one example.

Before we get into how the juvenile system works, I want to ask you something. You all know what shoplifting is, right? What if 5 middle school kids go to Towne East together and one of the boys, Shawn, decides that he wants the Usher CD and dares his friends to help him get it. He comes up with a plan: he'll go in the store and wait around while Kristen distracts the clerk so he doesn't see Zachary put the CD in his jacket. Kelly doesn't want any part of it, but finally agrees to wait outside the store and tells the others that if she sees any security officers; she'll drop her purse as a signal. Cooper tells his friends that they are crazy and that he doesn't want to get in trouble. He goes to the Food Court and has a smoothie. The plan works just fine—and Kelly doesn't even have to dump her purse. They get the CD and then meet up with Cooper in the Food Court. As they are looking at the CD, though, a security officer comes up to them.

Who all is guilty of theft? Talk about theory of aiding and abetting—encouraging and assisting. These are the same principles that apply to adults. Will the officer automatically know that Cooper had nothing to do with it? He's likely to get arrested with the other kids until things get sorted out. His parents will probably get the same call as the rest of the parents.

Emphasize the importance of choosing friends carefully and knowing the people you hang around with. Also have them come up with ways that this could have been avoided—short of anyone having to snitch on their friends.

IV. Three Main Stages of Juvenile Criminal Process: Arrest, Trial, Maybe Punishment

A. Arrest

--Police are called and the juvenile is normally taken to JIAC (Juvenile Intake and Assessment Center)

--At JIAC, the juvenile will be interviewed to identify problems that he/she might be having and needs help dealing with.

--Parent will be called. (Have them talk about how it would feel, hearing this call being made—if guilty, if innocent. How would it make their parent feel?)

-- Decision to hold or release until court (parent has input)(can be up to 48 hours before being taken to court)

--If they are kept in custody, taken to juvenile detention center. The juvenile will stay here until a judge makes a decision, at a detention hearing, as to whether they can go home until the trial.

(This is a good time to show items from the detention center if they are available to you). Or, just discuss what it's like to be held in detention until trial. They give you clothes to wear (jumpsuits & sneakers w/ Velcro). Bathroom time is not private time—everything is monitored. Given toiletries—the very basics of toothbrush, toothpaste, comb—no make up, hair gel, etc.. TV in the common area—guards choose what to watch. Still go to classes—but no field trips, sport teams, orchestra, field trips, etc.

B. Trial

--Every juvenile gets a free lawyer if he/she wants one. Can hire one, but everyone has chance to use one for free.

--First decision is whether to keep in juvenile court or try as an adult. This only applies to kids 14 and older. Prosecutors can ask the judge to send to adult court, and then the judge makes a decision. Considers things like whether the kid has been in trouble before, how serious the alleged crime is this time, safety of community, etc. (The more serious and the worse the history is, the more likely the child will be treated as an adult.)

--Parents or guardian go to all hearings. (Think how happy they are to miss work and then sit around juvenile court all day)

--Trial is to judge, not to a jury. Kansas law provides for possibility of a trial, but this never ever happens.

--Courtroom is normally open to public, but under some circumstances, can be closed so only family, officers, and witnesses can be there.

--Suppression issues:

Way that evidence that is bad for person charged with crime can be kept out of evidence—normally because it was unlawfully gotten by the police.

Before trial, defense attorney will try to keep out any evidence that was not properly obtained. Examples could be:

--If police at Towne East went out and searched every car in the parking lot looking for the stolen Usher CD. If they found the CD—or drugs in someone else's car—this evidence would be suppressed because they did not have a warrant to search all the cars in the parking lot.

--Some statements by juveniles to police are suppressed—kept out of evidence—because they didn't follow all the rules in asking the questions. *Miranda* (those are the rights they read on TV or in the movies....if in custody must be told that you have the right to remain silent & right to an attorney before making statements)

Additional safeguard for juveniles: if under 14, police must contact parent or guardian before asking questions. (Relate back to shoplifting example)

--Search of property in school.

The Constitution guarantees that all citizens are free of unreasonable searches and seizures. Just because you are a student, does not mean that you have given up these 4th Amendment protections. The big question is whether it was "reasonable." One recent case involved a tip to the administration that a student had drugs hidden inside his ball cap. They found the student, he had on a ball cap, and they looked and there were drugs. There, they said that the search was ok—it was constitutional. What made it reasonable? Talk about different levels of reasonableness—locker, desk, car? Different degrees of intrusion & of expectation of privacy.

--Some trial rights (these are all the same as for adults)

1. Cross-examination

This means that the juvenile's attorney gets to ask the witnesses questions about what they saw, heard, etc. Give example based on shoplifting example above. Cooper's attorney might want to ask the CD clerk if he saw him in the store, etc. Prosecutors also get to

cross-examine any witnesses that the person charged with the crime has testify.

2. Subpoena witnesses

So, if Cooper ends up getting charged for shoplifting, he could subpoena the lady at the Smoothie booth to come and testify that he was in the Food Court the whole time and that the other kids came up to him talking about stealing the CD.

3. Juvenile does not have to testify, but can if he/she wants to.

4. Must be found guilty beyond a reasonable doubt.

C. If Guilty, Punishment

1. Probation

This is a possibility if not a terribly serious crime and haven't been in trouble before. You hear about kids "getting off on probation." Not as great as it sounds. Juvenile suddenly has a dozen adults telling him/her what to do and not do:

- report to probation officer
- what friends you can hang out with
- what kind of grades you must make
- curfew
- drug tests
- no DL
- treatment for any drug/alcohol problems
- counseling
- sometimes write an essay or apology
- restitution (to pay back for any damage caused)
- sometimes can't go back to places—like the CD store
- obey rules of your home

2. Detention.

If offense is more serious, or been in trouble a lot, the judge can order detention—which means juvenile must live somewhere other than his/her home. Never sent to an adult prison as a juvenile. The judge picks where.

- Lake Afton
- Community Center
- Youth Residential Facility
- Another trusted adult
- House arrest

--Depending on crime, juvenile can be kept in custody until 24 years old. At 18, transferred to adult prison.

3. Effects

Whether placed on probation or in detention....or just arrested...can have a huge impact on a juvenile's future.

--Must list on applications for scholarships, college, job.

--Criminal History. If juvenile gets in trouble more than once, the first time will make the later sentences be tougher. This lasts forever—does not go away once you are an adult.

--Arrests are reported to school officials and can include information like gang member, or girlfriend of gang member. Can influence how juvenile is seen at school.

Talk with kids about realizing that choices they make now can have a big impact on their future. Peer pressure. Even if you have the best intentions, you have to be aware of what your friends are up to and if it's not good—get out. Think about whether hanging out with that person right now is worth the possible consequences.

Tobacco, Liquor, and Curfew Laws Affecting Minors

By Sharon L. Dickgrafe, Assistant City Attorney, Wichita
Updated Joe Allen Lang, First Assistant City Attorney
(Current through 2005 laws)

I. Driving Under the Influence of Alcohol or Drugs (DUI)

A. Offense (K.S.A. § 8-1567)

Operating or attempting to operate any vehicle under the following circumstances:

1. Adults or Minor. K.S.A. § 8-1567

- (1) BAC of .08 or more as shown by any competent evidence
- (2) BAC of .08 or more within two hours of operating vehicle
- (3) Incapable of safely driving a vehicle due to consumption of alcohol
- (4) Incapable of safely driving a vehicle due to consumption of drugs
- (5) Incapable of safely driving a vehicle due to consumption of a combination of alcohol or drugs

2. Minor (under 21). K.S.A. § 8-1567a

BAC of .02 but less than .08

- Definitions at K.S.A. § 8-1013
- “BAC” = blood or breath alcohol concentration
- Court’s jurisdiction over juvenile traffic offenders (14 or more) at K.S.A. § 8-2117

B. Penalties (K.S.A. §§ 8-1567 and 1567a)

1. Juvenile (14 but less than 18)

- a. Up to 10 days in juvenile detention (K.S.A. § 8-2117)
- b. Fines (as listed below)
- c. Drivers license suspension up to 1 year

2. Over 18 and Adult

1st Offense Class B Misdemeanor
Sentence 48 hours to 6 months OR 100 hours community service
Fine \$500 to \$1,000
Drug & Alcohol program

2nd Offense Class A Misdemeanor
Sentence 90 days to 1 year (must serve at least 5 days before
probation or parole)
Fine \$1,000 to \$1,500
Drug & Alcohol treatment project if probation or parole

3rd offense Nonperson Felony
Sentence 90 days to 1 year (must serve 90 days before probation or
parole)
Fine \$1,500 to \$2,500

Drug & Alcohol treatment as a condition of parole

4th and subsequent Nonperson Felony

Sentence 90 days to 1 year (must serve 90 days)

Mandatory 1 year post-release supervision

Drug, Alcohol, or mental health treatment and counseling

May revoke license plate of vehicle for up to one year

Offense with Child under 14 in the vehicle

Sentence enhanced by one month

Any offense

Community service in lieu of fine

Court may order convicted person's vehicles(s) impounded for up to one year.

Only one diversion allowed in a person's lifetime.

C. Driver's License Suspension/Revocation

1. For BAC Test Failure (or Conviction of Vehicular Battery or Aggravated Vehicular homicide) K.S.A. § 8-1014(b) and (c)

a. Less than 21 years Test Failure (K.S.A. § 8-1014(c))

1. BAC .02 less than .08

1st offense - 30 days suspension and 330 restriction

2nd and subsequent – 1 year suspension

2. BAC .08 or greater or conviction

1 year suspension

b. Adult Test Failure (.08) or conviction (K.S.A. § 8-1014(b))

1st Occurrence – 30 day suspension and 330 day restriction

2nd to 4th Occurrence – 1 year suspension and 1 year restriction to ignition interlock device

5th or subsequent – driving privileges permanently revoked

2. Test Refusal (any age) (K.S.A. § 8-1014(a))

1st Occurrence – 1 year suspension

2nd Occurrence – 2 year suspension

3rd Occurrence – 3 year suspension

4th Occurrence – 10 year suspension

5th or Subsequent – Lifetime suspension

II. Alcohol Offenses

- A. Possession, purchase, or consumption of liquor or cereal malt beverage by a minor (less than 21 years) prohibited. K.S.A. § 41-727

Penalties

18 and over

Class C misdemeanor, minimum \$200 fine

Under 18

Prosecuted as Juvenile Offender,

Fine \$200 - \$500

Court may order

40 hours or community service and/or alcohol education classes

Suspension of DL for 30 days (1st offense), 90 days (2nd offense), or 1 year (3rd and subsequent offense)

Exemptions:

1. For possession and consumption (only) of CMB when permitted, supervised, and furnished by person's parent or legal guardian (K.S.A. § 41-727(e)).
2. For purchase or possession when acting as an undercover agent for authorized law enforcement purposes (K.S.A. § 41-727a).
3. (Certain employment exemptions for over 18, see K.S.A. § 41-727(a).)

- B. Transportation of Open Container (any age)

Unlawful to transport liquor or CMB which is not in unopened and sealed contained in passenger compartment of vehicle. K.S.A. § 8-1599

Penalty: Fine of not more than \$200 or imprisonment of not more than 6 months. 2nd and Subsequent DL suspension for 1 year.

III. Tobacco Offenses

A. School

K.S.A. § 72-53,107(a) – prohibits the use tobacco products in any school building.

B. Possession by Minors

K.S.A. § 79-3321(m) - Illegal for individuals under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products

K.S.A. § 79-3321(n) – Illegal of individuals under 18 years of age to possess or attempt to possess cigarettes or tobacco products.

Penalty: Deemed “tobacco infraction” – fine of \$25.

Judge may order minor to appear in court with parents.

(K.S.A. § 79-3322(c); *see* K.S.A. § 12-4214(a) for municipal court dual jurisdiction)

Non-arrestable: Law Enforcement officers cannot arrest for a tobacco infraction unless the person charged has received a notice to appear and has failed to appear in court.

Seizure: Cigarettes in the possession of a minor are deemed to be a nuisance and may be seized as contraband by law enforcement officers. K.S.A. § 79-3323(a)(2)

III. Curfews

Each city has the authority to establish curfews for minors.

A. City of Wichita (Chapter 5.52 of the City Code)

Unlawful for a minor under 18 years of age to loiter, idle, wander, stroll, or play in or upon the public streets, highways, roads, alleys parks, playground, or other public grounds, public places or public building, places of amusement or entertainment, eating places, vacant lots, or other place unsupervised by an adult having lawful authority to be at such place. (Sec. 5.52.010)

During the following times:

Age 15 and under:

11 pm to 6 am of following day

12 midnight to 6 am of the following day (Friday & Saturday night)

Age 16 – 17:

12 midnight to 6 am of the following day

1 am to 6 am (Saturday and Sunday)

Exceptions:

1. accompanied by parent or guardian (or person with lawful care and custody)
2. upon an emergency when directed by parent or guardian
3. attending or returning directly (without detour or stop) from an official school, religious, or a recreations activity that is supervised by an adult and sponsored by the city or a civic organization.
4. Employment activity or going to or returning directly from employment
5. Sidewalk abutting the minor's residence or rabbit the residence of next-door neighbor (if neighbor did not complain).
6. Attending or traveling directly to or from an activity involving first amendment rights.
7. Involved in interstate travel through the city.

Unlawful for parent or guardian to permit or allow (by insufficient control) minor to violate this law. (Sec. 5.52.020)

Unlawful for business (including for-profit place of amusement or entertainment) to allow minor to remain on the premises in violation of this law. (Sec. 5.52.030)

Penalties:

Minor – Dealt with “according to juvenile court law and procedure”
Officer shall warn minor to desist and to immediately return home
A written notice is served upon parent or guardian.

Parent or Guardian - \$50 to \$500 fine for 2nd notice
\$100 to \$500 fine for 3rd and subsequent notice.
OR
Community service by the minor

Business – \$50 to \$500 fine

B. City of Maize (Code sec. 11-201 et seq.)

[same offense description as Wichita]

During the following times:

July 1 – August 31

11 pm to 6 am of following day

12 midnight to 6 am of the following day (Friday & Saturday night)

September 1 – June 30

10 pm to 6 am the following day

11 p.m. to 6 am the following day (Friday & Saturday night)

[same exemptions as Wichita]

Penalties:

Minor – Juvenile court or municipal court
Fine of \$25 - \$500 in municipal court.
Notice to parents

Parent or guardian – Not less than \$500 fine for 2nd and subsequent notices.

C. State Law (emergency)

Inherent powers to declare curfews included within emergency powers (police powers)

K.S.A. § 13-508 - The mayor shall be a conservator of the peace throughout the city, and shall at all times have power to appoint such number of special policemen as he or she may in cases of emergency deem necessary to preserve the peace of the city.

K.S.A. § 19-813 – Sheriff has authority to quiet and suppress all affrays, riots and unlawful assemblies and insurrections.

K.S.A. § 48-932 – A state of local disaster emergency may be declared by the chairman of the board of county commissioners of any county, or by the mayor or other principal executive officer of each city of this state having a disaster emergency plan, upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within such county or city.