Addressing Constitutional Law Issues at the Schoolhouse Gates

Constitutional Law Center
University of South Carolina School of Law
Introductions

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Constitutional Law Center

- Our Mission
- Services We Provide
Constitutional Issues

Why do school board members need to know about constitutional issues?

- Student and personnel matters
- Proactive vs. reactive
- Avoid litigation
Due Process

- What is due process?
  - 14th Amendment:
    - No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any State deprive any person of life, liberty, or property, without due process of law;** nor deny to any person within its jurisdiction the equal protection of the laws.

- Who is entitled to due process?
  - Students
  - Personnel
Due Process

- How to provide due process to students?
Due Process

- How to provide due process to personnel?
  - Contract levels
    - Induction
    - Annual
    - Continuing
Search and Seizure

• 4th Amendment:
  • “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated”

• How does the 4th amendment apply in the school setting?
  • Students
  • Personnel
Search and Seizure

- How is unlawful search and seizure of students avoided in the school setting?
- How is unlawful search and seizure of personnel avoided in the school setting?
Free Speech

• 1st Amendment
  • Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

• Who is entitled to free speech in the school setting?
  • Students
  • Personnel
How to avoid censorship of student speech?

Free Speech

- How to avoid censorship of personnel speech?
  - *Liverman v. City of Petersburg*, 844 F.3d 400 (4th Cir. 2016)
  - *Grutzmacher v. Howard Cnty.*, 851 F.3d 332 (4th Cir. 2017)
How can these constitutional issues arise in schools?
Questions?

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