

States legislate to
make schools serve
social needs - patriotism,
temperance, promote health,

Legal Basis
OF
The Public Secondary
Education Program
OF
The United States

PUBLISHED BY
C. F. WILLIAMS & SON, INC.
36 BEAVER STREET
ALBANY, N. Y.

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CHAPTER I

THE PROBLEM STATED

The public secondary education program is a complex business enterprise as well as a welfare activity of vital importance. It seems evident that a successful continuance of the development of this program can be based only upon familiarity with and use of sound business principles, and a knowledge and use of the laws governing the educational problems involved.

The purpose of this study is to find and synthesize constitutional and statutory provisions relating to public secondary education, and the decisions of the courts interpreting the same.

DELIMITATION OF THE PROBLEM

The study includes the forty-eight states of the United States. It is limited to public schools. It is further limited to those public schools which are of secondary grade, seventh to fourteenth grades inclusive. This classification includes: (1) junior high schools, (2) high schools and senior high schools, (3) continuation schools (part-time day and evening), and (4) junior colleges. The thirteenth and fourteenth grades are included only when existing as junior colleges.

The study is in two major parts. The first part is an attempt to discover what curricula and extra-curricular services are authorized or prescribed by law in the various states, and upon what rules of law they are based. The second part is a study of the legal provisions for controlling the expenditure of public funds for the support of this educational program, and of the rules of law involved.

DATA

The principal sources of data are: (1) Federal constitution, (2) state constitutions, (3) state statutes as given in state school laws, state codes, and state session laws, (4) reports of state supreme courts, appellate courts, and lower courts of record.

Other references are: (1) legal periodicals, (2) United States Bureau of Education bulletins and reports, (3) American City Bureau bulletins, (4) curricula of public secondary schools, and (5) in the introduction a few facts quoted from standard writers in the secondary education field. For a complete list of references see Part V, Bibliography.

The validity of the data used in this study seems well established. Probably no records are more accurately made than those of our Federal and State constitutions, statutes, and court reports. In this study every court case used has been traced by means of Shepard's Citators and the present status of the case determined before being included. The latest published "School Laws" of the various states have been supplemented by examining the subsequent state session laws. Constitutional provisions not published in "School Laws," and amendments and laws enacted since the most recently published "School Laws" have thus been secured.

Since every state in the United States has been included in the study, it seems certain that the statements of law involved are based upon valid data. The reliability of the data used seems almost as evident. Since the sources are permanent, objective records, the same data should result from a similar study covering the same period, if conducted by different individuals.

Since this study is not one purporting to measure the relative merits of the educational programs of the several states, but is rather to endeavor to discover what legal provisions affect the public secondary education program, it is believed that the validity of the data composed of evidence from all the states and ruling

court cases is of a high order. Careful re-checks upon the data used were made with the aim of securing the highest degree of validity and reliability possible.

METHOD

The procedures followed may be summarized into major steps or divisions. The legal provisions of the forty-eight states relative to the public secondary schools were segregated after reading all of the school laws in the United States. These provisions were then classified. They were then analyzed, compared, and summarized. These operations were for the purpose of securing a knowledge of the legal provisions of the various states relative to the public secondary education program.

Simultaneously with the above procedures a study was conducted for the purpose of discovering the attitudes of the courts of the various states and of the United States toward these provisions. Since we can never be sure of the constitutionality or meaning of statutes until interpreted by our courts, the ascertaining of court opinions relative to the statutory provisions relative to the secondary school program seems to be of vital importance. The first step was to consult the "Corpus-Juris-Cyc" system, the American Digests, and the legal periodical index. Every reference that gave promise of a possibility of applying to the study was investigated. Approximately 1,000 court cases were examined. Of these 424 were found to refer to some phase of this study. These were read carefully; the essential facts of the case were recorded, and the opinions of the courts were analyzed for the rules of law upon which the decisions were based.

The final step of procedure was to make an analytical study of the classified legal provisions and the interpretations by the courts of these provisions for the purpose of recording the controlling laws relative to the public secondary education program.

CHAPTER II

THE PUBLIC SECONDARY SCHOOLS OF THE UNITED STATES

Public secondary education is primarily a state function. The United States Constitution does not mention "education." Its control is not included among the powers enumerated in the Federal Constitution.¹ That education is a state rather than a federal function is indicated by the United States Constitution in the provision: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."²

OBJECTIVES OF THE PUBLIC SECONDARY EDUCATION PROGRAM

The constitutions and statutes of the several states express in at least forty different ways the objectives for which the public secondary education program is established and maintained.³

The objectives most frequently stated are: "to promote health" by thirty-three states,⁴ and to "develop temperance" by thirty-one,⁵ "to establish free public schools,"⁶ "to inculcate morality,"⁷ "to develop patriotism,"⁸ and "to teach the duties and dignity of American citizenship,"⁹ are each mentioned as general objectives by more than twenty and less than thirty states. "That the public schools be open to all,"¹⁰ and "to inculcate honesty,"¹¹ are given more than ten and less than twenty times.

¹Article I, Section 8, United States Constitution.
²Article X, Amendments to the United States Constitution.
³See Key Code I, post.
⁴See key number 1033, Summary Chart I, post.
⁵See key number 1028, Summary Chart I, post.
⁶See key number 1001, Summary Chart I, post.
⁷See key number 1021, Summary Chart I, post.
⁸See key number 1025, Summary Chart I, post.
⁹See key number 1032, Summary Chart I, post.
¹⁰See key number 1002, Summary Chart I, post.
¹¹See key number 1018, Summary Chart I, post.

LEGAL BASIS OF SECONDARY EDUCATION

Seven objectives were each given by more than five and less than ten states. These objectives are: "to cherish science," "schools to be efficient," "to be thorough," "to encourage virtue," "to encourage thrift and economy," "to aid in the diffusion of knowledge," "to aid in agricultural improvement," and "to teach good manners." The remainder of the forty objectives were each selected by five or fewer states.

It is doubtful whether all of the forty statements of purposes expressed in the constitutions and statutes may be classed technically as true objectives. Yet these statements placed in the constitutions by their framers are interesting and valuable expressions of those purposes for which they provided state systems of public schools.

The following key code lists these expressions of objectives in detail. The key number for each part of the code indicates the column on the summary chart in which the states mentioning the various objectives are checked.

A similar plan will be followed throughout the study. Key codes will be used in presenting the constitutional and statutory provisions of the several states in detail. The chart and code methods have been adopted in order to secure definiteness while presenting the material in condensed form.

KEY CODE I

OBJECTIVES OF PUBLIC SECONDARY EDUCATION
(as stated in state constitutions and statutes)

Key Number	Provision
1001	The public secondary schools shall be free (40)*
1002	The public secondary schools shall give equal benefits to all (1)*
1003	The public secondary schools shall be efficient (9)*
1004	The public secondary schools shall be thorough (6)*
1005	The public secondary schools shall be open to all (18)*

*The figures in parentheses indicate the number of states having this provision

THE PUBLIC SECONDARY SCHOOLS

Key Number	Provision
1006	The public secondary schools shall serve as uniform sources of information (19)*
1007	The public secondary schools shall foster learning (1)*
1008	The public secondary schools shall encourage virtue (8)*
1009	The public secondary schools shall prevent vice and immorality (2)*
1010	The public secondary schools shall preserve literature (5)*
1011	The public secondary schools shall cherish science (9)*
1012	The public secondary schools shall inculcate benevolence (2)*
1013	The public secondary schools shall countenance charity (3)*
1014	The public secondary schools shall inculcate industry (4)*
1015	The public secondary schools shall encourage economy, thrift (8)*
1016	The public secondary schools shall inculcate sobriety (1)*
1017	The public secondary schools shall countenance sincerity (2)*
1018	The public secondary schools shall inculcate honesty (10)*
1019	The public secondary schools shall inculcate punctuality (2)*
1020	The public secondary schools shall develop social affections (3)*
1021	The public secondary schools shall inculcate morality (25)*
1022	The public secondary schools shall inculcate respect for others (1)*
1023	The public secondary schools shall aid in the diffusion of knowledge (8)*

*The figures in parentheses indicate the number of states having this provision.