



Curriculum

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- [Background](#)
- [Authority over Educational Curricula](#)
- [Ideological Content](#)
- [Curriculum and Free Speech](#)
- [Making Curriculum Decisions](#)
- [National Education Goals](#)
- [National Standards](#)
- [Additional Resources](#)
- [Organizations](#)

Background

According to Black's Law Dictionary, "curriculum" refers to the "set of studies or courses for a particular period, designated by a school or branch of a school." But curriculum also refers to the complete range of activities designed by an educational institution to foster education. Fundamentally, curriculum outlines what students are supposed to learn and how they are to do it. Because there is much room for divergence of personal viewpoints in these issues, a school's curriculum fosters some of the most emotional and contentious debates in education law.

From a legal perspective, curriculum issues focus on two areas:

- The range of courses or instructional programs available to students
- The aggregate of activities, materials, procedures, and instructional aids used in the instructional program

Local school boards and officials typically make the decisions regarding curriculum and instructional materials for their schools, although some state authorities may limit their discretion to some extent.

The subject of curricula touches on federal, state, and local government authority, every course taught in school, and every level of school. The standards and objectives of every state differ with respect to curricula in their schools. All of this makes for a very extensive topic. A focus on the curricula in public schools from kindergarten through grade twelve (primary through secondary grades) touches on the key elements of the topic while reducing the scope of the topic to manageable proportions.

The curricula for primary and secondary schools are designed to integrate across the various grade levels. They are also intended to provide a coherent and comprehensive educational experience for each student who undertakes and completes all grade levels. Curricula are also meant to accommodate the many differences in learning styles and abilities and to account for different interests and aptitudes. Thus, a thoughtful school curriculum offers a broad range of options and tracks. Students either elect or are placed in these options or tracks based on diagnostic counseling, academic performance, and consultation with parents and students. Each state sets curricular policy that applies to schools within its [JURISDICTION](#), but local and individual variations occur according to the degrees of freedom allowed by the basic policy.

Authority over Educational Curricula

Some may be surprised to learn that the federal government does not determine what students should know and be able to do in any subject at any level of schooling. Instead, implementing standards for students' performance is left to state and local authorities and to some extent with parents. There are some 16,000 school districts in the United States. Each one is administered and financed by a local community and by one of 50 state departments of education. This extensive local control, one of the defining characteristics of American education, has caused school standards to correlate with the socioeconomic status of the communities in which they are located.

Federal Authority

As stated above, the federal government has historically played a minor role in education. In fact, the Constitution relegates most of the responsibility for education to the states. Thus, until the 1960s, the federal government largely stayed away from education. While the trend for the federal government to become involved in education issues has continued, even today, the total spending by the federal government accounts for less than 10 percent of the total spent for K-12 education. But because of heavy federal regulation, these federal dollars wield a disproportionate amount of influence.

Federal programs and regulations increased dramatically after 1965. As of 2002, the Department of Education spends over \$30 billion per year on K-12 and higher education expenses, and hundreds of education programs are scattered throughout many other federal agencies. Most are designed to help disadvantaged children, though their records of success vary.

Perhaps the most prominent role of the federal government in terms of curricula has been to enforce and enhance rights to educational opportunities and educational equality. This function has involved the enforcement of constitutional rights to education and an adequate curriculum. These federal efforts have generally focused on guaranteeing equality of access to educational content rather than the content or purpose of the instruction itself. Other than these affirmative efforts, the federal government has hesitated to establish or control a school's curriculum. Rather, the government's role has been more to encourage schools to modify and improve curriculum, and currently, these suggestions are being backed up with funding and do not merely rely on persuasion.

State Authority

The states are the entities primarily responsible for the maintenance and operation of public schools. The states are also heavily involved in the establishment, selection, and regulation of curriculum, teaching methods, and instructional materials in their schools.

Each state's constitution requires it to provide a school system where children may receive an education. Many state constitutions also contain express provisions for creating educational curricula. Some state constitutions even empower state authorities to select textbooks and educational materials. Besides constitutional authority, state governments also have authority to legislate in this area, or they can authorize officials to establish, select, and regulate curriculum.

State legislatures have frequently exercised their authority to mandate specific courses to be taught in public schools. They have also set mandatory requirements for students to graduate. In cases where state rules and regulations for courses do exist, they must be followed. Local school districts may, however, offer courses and activities in the instructional program beyond those required by state [STATUTE](#). Other states delegate more of their authority. They usually prescribe a model curriculum framework, allowing local authorities to develop

their own curricula based on the general state goals.

In many jurisdictions, state authorities adopt textbooks and instructional materials. Local boards and educators then may select from among the preapproved materials. Generally, local authorities have the authority to declare state-adopted instructional materials unacceptable. States may mandate the use of uniform, adopted textbooks within a school's instructional program, but such exercise of power is rare. Instead, local boards are usually allowed to select materials to supplement the state-selected materials.

Local Authority

It is well established that local school boards or districts hold a great deal of authority over the curricula in their schools. Their authority is paramount except when there are overriding federal and state concerns. Otherwise, the local school board has complete discretion to determine what courses to offer, continue, or discontinue. Federal and state governments may impose minimum standards with which local boards must conform, but local boards of education are generally permitted to supplement or expand courses or activities and materials.

The history of [LITIGATION](#) with respect to curricula shows that courts rarely interfere with a local board's authority to select and regulate the curriculum within its jurisdiction. By comparison, there are limits on the relative authority of teachers, students, parents, and the rest of the community. Local school boards have discretion over issues relating to the curriculum that it deems most suitable for students. This extends to the teaching methods that are to be employed and include the books and other educational tools to be used.

Parental Authority

Parents are free to direct the education of their children, including the choice of a private school. However, states have the power to regulate private schools, with the exception of religious institutions.

Parents are particularly active in issues relating to special education which is available for children with disabilities. A child's [DISABILITY](#) must adversely affect the child's educational performance in order for the child to receive special education assistance. The Individuals with Disabilities Education Act (20 U.S.C. §§ 1400 et seq.) is a federal law that contains a process for evaluating a child's special needs and for prescribing an individualized education program for children with special needs. Most states have enacted their own laws that parallel the Act.

Homeschooling—legal in all fifty states—is an increasingly popular option for some families. It is perhaps the greatest expression of parental control over the curriculum issues that affect their children. Homeschooling requires a large time commitment on the part of the family. There may be additional requirements as well. For example, in some states parents need to register their intent to homeschool with the state's department of education or the parent's local district school board. Furthermore, many states require annual [EVIDENCE](#) of home-schooled children's progress.

Ideological Content

Schools may decide upon curricula based upon local community views and values as to educational content and methodology. Even so, school boards are limited in their ability to remove materials from the curriculum, especially when a removal is based exclusively on "ideological content." Decisions about the curriculum cannot be used to dictate views on politics, nationalism, religion, or other matters of opinion.

When trying to insure the school board's discretion is being exercised in a constitutionally permissible manner, people need to examine the intent of the board members. Courts are not limited to examining the objective motivation of the board but may consider individual motives and even the mental processes of individual board members.

Curriculum and Free Speech

Activities in the classroom are supervised by faculty and are designed to teach or convey particular knowledge or skills to students. Consequently, school boards and educators must have broad control over the approval of the materials used. In view of school board responsibilities in this respect, state laws have almost uniformly required the obedience of subordinate employees, including the classroom teacher, to follow the board's curriculum choices and related mandates. Teachers certainly enjoy a degree of academic freedom and First Amendment rights; these rights do not give teachers the authority to disregard the curriculum directives of the board. In sum, the courts have declared that individual teachers may not simply teach what they please.

A school board authority almost always extends to classroom expression. Thus, public schools may limit classroom speech to promote certain educational goals. This also touches on the use of public school facilities by groups that promote a certain agenda or otherwise exercise their right to free speech. Although a school may occasionally open a classroom for other purposes, there is no doubt that during instructional periods the classrooms are reserved for other intended purposes: the teaching of a particular course for credit. In such periods, classroom speech and expression may be reasonably restricted.

As we have seen, a school's curriculum includes actual instruction as well as classroom materials. For example, textbooks, lab equipment, and other routine instructional materials are used to support a school's curriculum. These are subject to the school board's control. Additionally, displays in or around the classroom or the school may be curricular in nature. These materials are therefore subject to broad control by school authorities.

Making Curriculum Decisions

Decisions about a school's curriculum must be based upon legitimate pedagogical concerns. On occasion, these concerns have included teaching material, classroom expression, or other matter criticized on the grounds of the following issues:

- Advocacy of political or similar matters
- Bias or prejudice
- Conformity or nonconformity to shared or community values
- Distracting from an educational atmosphere
- Inability to teach prescribed curriculum because of disagreements with course content
- Lack of neutrality on religious matters
- Quality or professionalism
- Sexually harassing speech
- Suitability or unsuitability for intended students
- Vulgarity, [PROFANITY](#), nudity, sexuality, drug use, violence or other inappropriate themes

The definition of "legitimate pedagogical concerns" may be outlined in state statutes or regulations. State Education Board policies also may be relevant.

An important consideration is the age, maturity, and sophistication of the students to which educational material is to be provided. A school's oversight or authority over curriculum matters is greater where younger students are involved.

Schools need to identify pedagogical concerns before making decisions about a curriculum. Curricular decisions should not be made after a parent or someone else makes a complaint about ideological issues, and when there has been no pedagogical review. Such decisions are as suspect as the self-serving comments that attempt to justify those decisions made after the fact and not based on the previous record.

National Education Goals

At an education summit held in 1989, President George H. Bush and every state governor agreed upon 6 national education goals for the United States to achieve by the year 2000. Two more goals were added in 1994, and Congress passed legislation known as the National Education Goals. The goals created a framework for improving student achievement and refocusing the objectives of education. At the same time, the goals left specific tactics to state and local governments and to schools. Basically, the goals describe a general set of standards toward which all Americans should strive.

The National Educational Goals to be achieved by the year 2000 are:

1. All children in the United States will start school ready to learn.
2. The high school graduation rate will increase to at least 90 percent.
3. U.S. students will leave grades 4, 8, and 12 having demonstrated competency in challenging subject matters, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; every school will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our nation's modern economy.
4. The nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all students for the next century.
5. U.S. students will be first in the world in mathematics and science achievement.
6. Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and to exercise the rights and responsibilities of citizenship.
7. Every school in the United States will be free of alcohol and other drugs, violence, and the unauthorized presence of firearms and will offer a disciplined environment conducive to learning.
8. Every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

The Goals 2000: Educate America Act codified the goals and established federal support for voluntary, state-based systemic reform. These include the development and implementation of high academic standards. The Act calls for state plans to include:

- The development and implementation of content standards in core subjects
- Student assessments linked through performance standards
- Opportunity-to-learn standards or strategies

The Act also funds states' efforts to support systematic state reform based on state-developed plans. Also as a part of the Act, Congress established the Goals Panel as a new independent federal agency. The 18-member bipartisan panel consists of 8 governors, 4 members of Congress, 4 state legislators, the secretary of U.S.

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Department of Education, and the assistant to the president for Domestic Policy.

The Goals Panel functions in the following ways:

- Monitors and reports progress towards the goals
- Builds a national consensus for the reforms necessary to achieve education improvement
- Reports on promising or effective actions being taken at the national, state, and local levels to achieve the goals
- Identifies actions that federal, state, and local governments should take to enhance progress towards achieving the goals and to provide all students with fair opportunity to learn
- Collaborates with the National Education Standards and Improvement Council to review the criteria for voluntary content, performance, and opportunity-to-learn standards

The dialogue about national goals among legislators, educators, and school board members throughout the United States is focused on improving education standards for all students in U.S. schools. This dialogue and the directives and funding embodied in federal legislation have led nearly every state to design and implement curricular frameworks or guidelines. Many states have even developed or are in the process of developing [ASSESSMENT](#) instruments to monitor their schools' progress towards higher standards.

National Standards

In terms of national trends, the consensus has been moving toward establishing a set of national standards for education. So far, there are voluntary national standards for math, science, and history. There are standards being developed for other subjects as well.

Many factors that go into decisions about the development and implementation of curriculum in U.S. schools. Some of these are:

- Whether the state and/or district have curriculum guidelines
- Whether state and local guidelines conflict with each other
- Whether there are a large number of students requiring bilingual education
- Whether the state or district requires schools to follow their guidelines or allows them to develop their own curricula
- For schools that retain local autonomy over curricular decisions, whether they may choose to adopt or ignore state or district guidelines

For the latter, the school's choice is likely to be influenced by the school's history of achievement, community standards, financial resources, and how it understands the relationship between these factors and the curriculum guidelines being provided by the state or district.

The issue of standards for learning and teaching has developed in the United States in recent years as policymakers, legislators, educators, parents, and community leaders have all shown an increasing concern with students' achievement levels. The word "standards" has been used in many ways during public discussions. Sometimes the term has been used to represent established levels of achievement; in other cases it refers to commonly shared sets of academic subject content, such as those embodied in state curriculum guidelines.

Curricular guidelines have been used to set standards in many states and have been linked to state-administered achievement tests. But standards in the United States also include more informal means by

Encyclopedia of Everyday Law: Curriculum

which schools maintain and promote the desired levels of achievement for their students. These achievement levels for schools and for students have usually been extrapolated from community expectations, and local communities continue to greatly influence curriculum and instructional decisions made at the school level. In the end, standards are partly a result of local decisions, such as those governing the selection of textbooks and those affecting a school's policy on the promotion or retention of students. The guides to standards have developed significantly, and school districts are feeling their influence.

Additional Resources

Education and the Law: A Dictionary. Taylor, Bonnie B., ABC-CLIO, 1996.

Educational Policy and the Law, Fourth Edition. Yudof, Mark G., David L. Kirp, Betsy Levin, and Rachel F. Moran, Wadsworth Group, 2002.

Education Law. Rapp, James A., LexisNexis, 2001.

"Mid-continent Research for Education and Learning." <http://www.mcrel.org/>. McREL, 2002.

"Rethinking Schools Online" Rethinking Schools, 2002. Available at <http://www.rethinkingschools.org/>.

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Organizations

The Alliance for Parental Involvement in Education (ALLPIE)

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