

# Chapter 1: Introduction to Law and Governance

Before beginning the study of any area of law, including education law, it is essential to first understand the foundational framework on which that law functions. An understanding of the theoretical and historical framework of U.S. law and governance will prove invaluable to your later comprehension of education law and its application in practice. This knowledge is vital for all professionals working with children, educators, or schools.

***All Professionals Must Know the Essential Laws Governing Their Profession***

It is critically important that educators working in public institutions understand the mandates of the Constitution and the lawful system of democratic governance. Public school educators are government officials legally bound by the limitations of the Constitution and the laws of democratic governance. Article VI of the U.S. Constitution requires that all government officials "both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution."

As agents of the state government (local public schools are a division of the state government), public school educators are required to pledge an oath of office to support the Constitution of the United States, the constitution of their state, and the laws consistent with these constitutions. The State of New York, for example, requires the following oath from all state officials including public educators:

I do hereby pledge and declare that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the position of [Title of Position] according to the best of my ability.

As required by Article VI of the U.S. Constitution, all 50 states mandate similar oaths in which public officials including public educators must pledge, swear, or affirm their support for the federal and state constitutions. Public officials who violate their oaths of office may be subject to dismissal and monetary damages under 42 U.S.C. § 1983 or other applicable laws.

Many public school educators sign these oaths along with other employment documents, taking little notice of what they are swearing to or what the constitutions and laws require of them. One of the oldest maxims in law, however, is that "ignorance of the law is no excuse." If accused of failing to follow the law, professional educators will be held accountable for knowing the laws governing their profession whether they actually know the laws or not.

As a matter of both professional competence and self-protection it is essential that educators understand the laws and governance systems applicable to their profession. This is necessary so that they may perform their professional duties in accordance with the law; protect their own rights; and help protect the legal rights of their students, colleagues, and community. Further, compliance with professional ethics requires not only that educators obey the law, but that they must never be a party to violations of the law or condone unlawful conduct by others.