



Direito a educação 2018

**Landmark U.S. Supreme Court
Cases in Education Law**

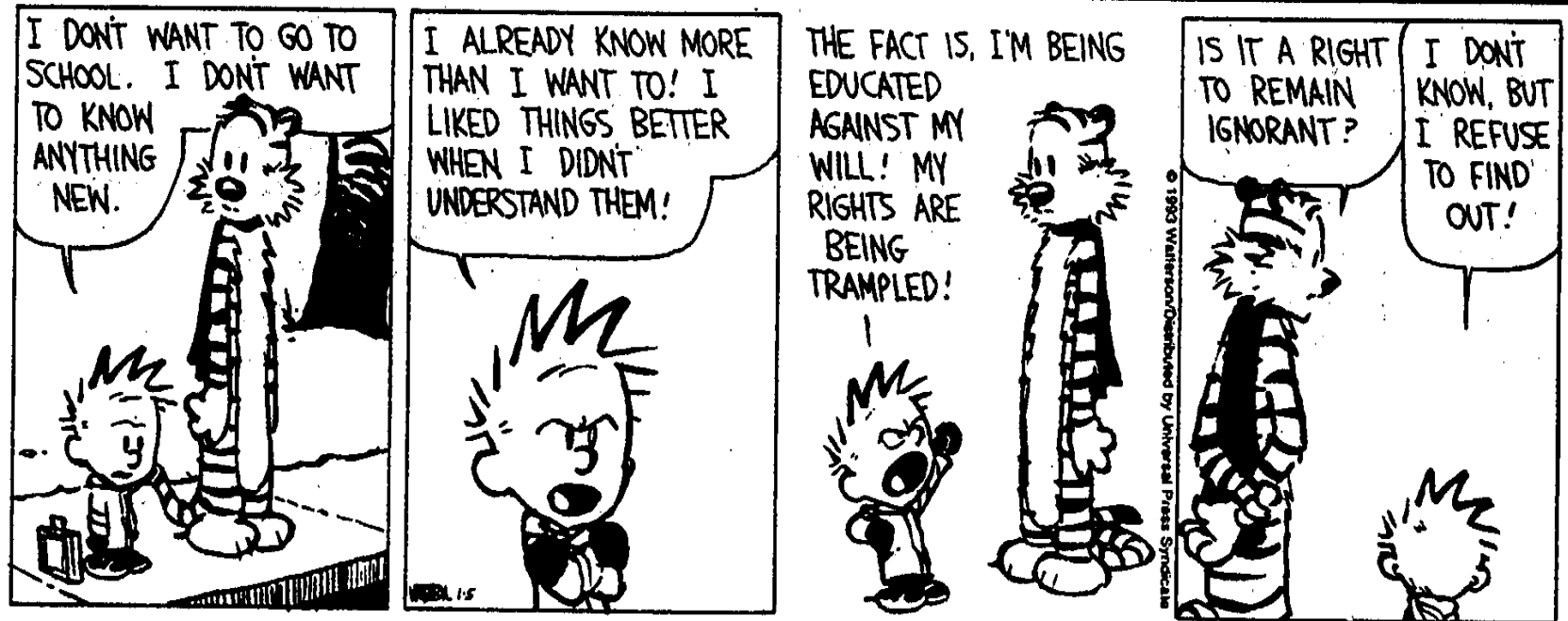
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25 April 2018

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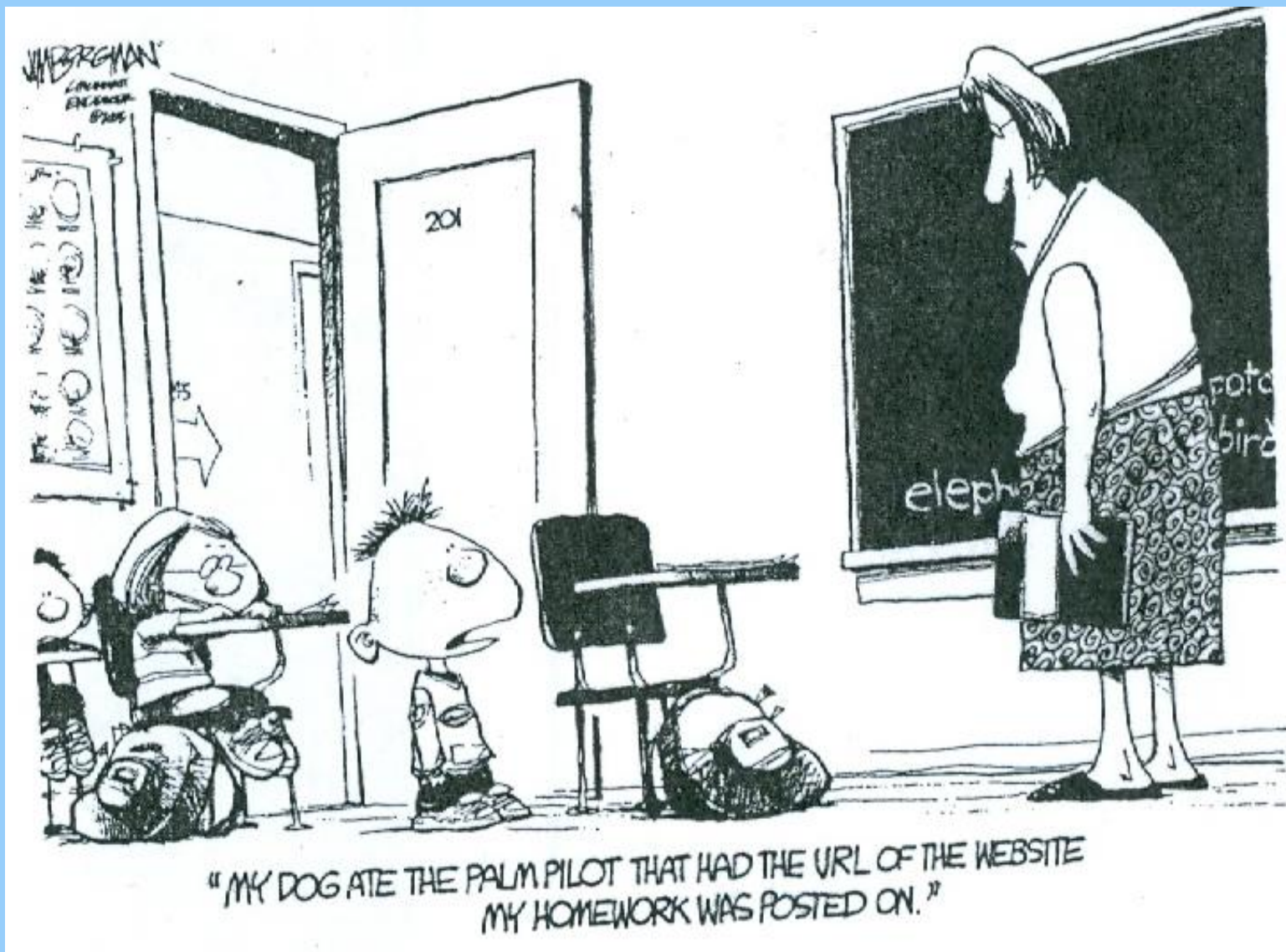


CALVIN AND HOBBS by Bill Watterson



Outline

- I. Introduction: Federalism
- II. Religion
 - a) State Aid
 - b) Prayer and Religious Activity



Outline

III. Student Rights

- a) Discipline-Due Process

- b) Free Speech

- c) Equal Opportunity

 - i) Title IX

 - ii) Special Education

Outline

IV. Teacher Rights

- a) Dismissal

- b) Free Speech

- c) Unions

V. School Finance

VI. Conclusion

I. Introduction: Federalism

10th Amendment

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.

(1791)

I. Introduction: Federalism

“Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected.”

San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 35 (1973)

I. Introduction: Federalism

Substantive (law must be fair, constitutional)

v. Procedural (steps taken)

Due Process

I. Introduction: Federalism

...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.

Introduction: Judicial Activism

Judicial Activism v. Restraint

See

Russo, C.J. (2009). “Judges as Umpires or Rule Makers? The Role of the Judiciary in Educational Decision Making in the United States.” *Education Law Journal, Vol. 10, No. 1, 33-47.*

I. Introduction

Preliminaries

Marbury v. Madison (1803) (Court took power to resolve cases)

Dred Scott v. Sanford (1856)

Plessy v. Ferguson (1896)

Cf. *Gong Lum v. Rice* (1927)

Korematsu v. United States (1943)

I. Introduction

Brown v. Board of Education (1954)

“... education is perhaps the most important function of state and local governments (p. 493).”

II a). Religion & State: Aid

Pierce v. Society of Sisters (1925) (upholding the right of religiously affiliated non-public schools to exist)

Everson v. Board of Education (1947) (permitting parents to be reimbursed for transporting their children to religiously affiliated non-public schools)

Board of Education v. Allen (1968) (allowing states to loan text books for secular instruction to students in religiously affiliated non-public schools)



II a). Religion & State Aid

Lemon v. Kurtzman (1971) THE all time case in this area.

First, the statute must have a secular legislative purpose;
second, its principal or primary effect must be one
that neither advances nor inhibits religion; finally,
the statute must not foster “an excessive government
entanglement with religion (pp. 612-613).

II a). Religion & State: Aid

Augilar v. Felton (1985)/ *Agostini v. Felton* (1997)

(permitting the on-site delivery of Title I services to students in religiously affiliated non public schools)

Zelman v. Simmons-Harris (2002) (upholding Ohio's voucher program)

Trinity Lutheran Church v. Comer (2017)

(cannot discriminate against religion based on religion)



"Honest! When I said 'Jesus Christ,' I was swearing, not praying!"

II b). Prayer and Religious Activity

Engel v. Vitale (1962) (striking down school sponsored prayer)

School District of Abington Township v. Schempp and *Murray v.*

Curlett (1963) (invalidating school sponsored prayer and

Bible reading)

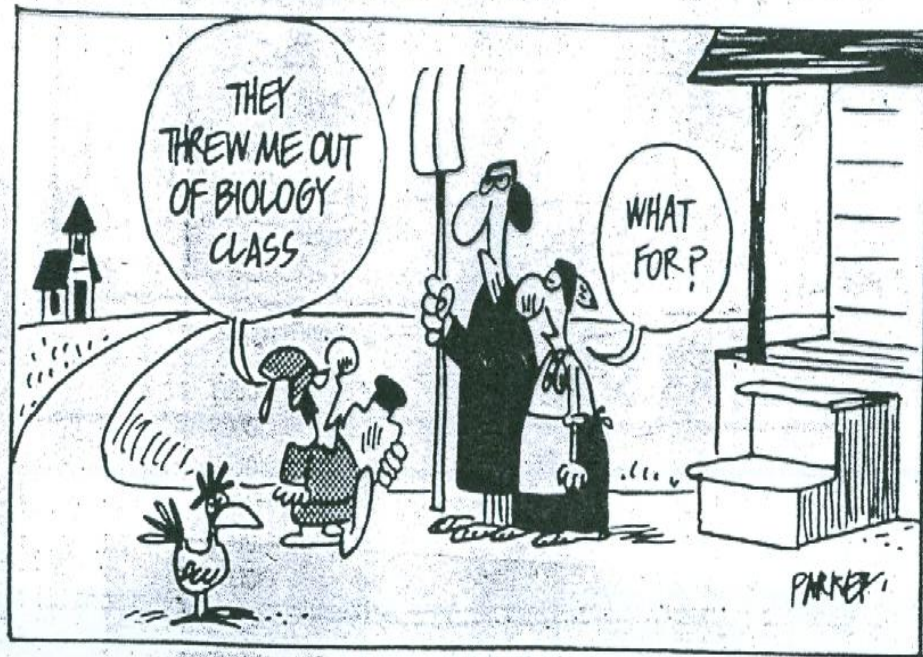
II b). Prayer and Religious Activity

Lee v. Weisman (1992) (prohibiting school sponsored graduation prayer)

Santa Fe Independent School District v. Doe (2000)

(forbidding student-led prayer before high school football games)

THE WIZARD OF ID



II b). Prayer and Religious Activity

Epperson v. Arkansas (1968) (striking down a state law mandating the teaching of Biblical creation in science classes)

Board of Education of Westside Community Schools v. Mergens (1990) (upholding the equal access act)

Lamb's Chapel v. Center Moriches Union Free School District (1993); *Good News Club v. Milford Central School* (2001) (granting religious groups access to school facilities)



"Surely you can get this information online?"

III a). Student Rights: Discipline-Due Process

Goss v. Lopez (1975) (addressing guidelines for suspensions)

Ingraham v. Wright (1977) (refusing to strike down corporal punishment)

New Jersey v. T.L.O. (1985) (setting rules for locker searches)

SOMEDAY, PERHAPS IN THE NOT-TOO-DISTANT FUTURE...
**...IT WILL TAKE A VILLAGE
TO DISCIPLINE A CHILD!**



Acker 11-96

COLORADO SPRINGS
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III a). Student Rights: Discipline-Due Process

Vernonia School District 47J v. Acton (1995); *Board of Education of Independent School District No. 92 of Pottawatomie v. Earls* (Earls, 2000) (setting rules for drug testing of students)

Safford Unified School District No. 1 v. Redding (2009)
(forbidding strip searches of students)

MAHELY Chicago Tribune
6/95

SO NOW IS IT, LIKE, OKAY
IF I PRAY IN SCHOOL
TO PASS MY DRUG TEST?

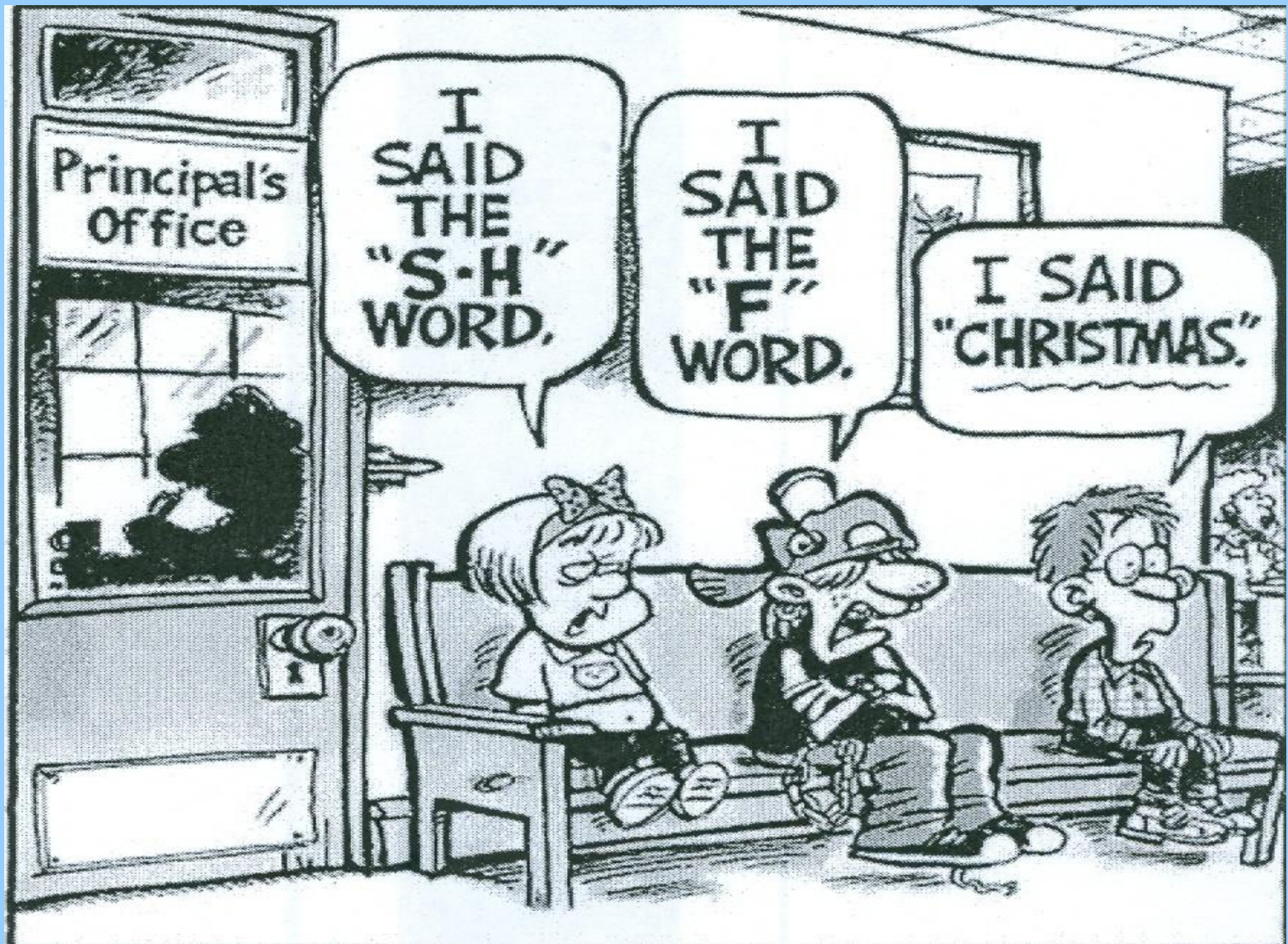


III b). Student Free Speech

Tinker v. Des Moines Independent Community School Dist. (1969):

“[i]t can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate (p. 506)”

“... where there is no finding and no showing that engaging in the forbidden conduct would ‘materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,’ the prohibition cannot be sustained (p. 509).”



III b). Student Free Speech

Bethel School District No. 403 v. Fraser (1986) (forbidding spoken words that are patently offensive)

Hazelwood School District v. Kuhlmeier (1988) :

“... educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns (p. 273).”

Morse v. Frederick (2007) (“BONG HiTS [sic] 4 JESUS”)

III c). Student Equal Opportunities: Title IX

Franklin v. Gwinnett County Public Schools (1992); *Gebser v. Lago Vista Independent School District* (1998)
(teacher-student sexual harassment)

Davis v. Monroe County Board of Education (1999) (peer-to-peer sexual harassment)

III c). Student Equal Opportunities: Special Ed

Board of Education of the Hendrick Hudson Central School

District v. Rowley (1982) (IDEA = a floor of opportunity)

Honig v. Doe (1988) disciplining students with disabilities)

Schaffer ex rel. Schaffer v. Weast (2005) (burden of
proof on parties challenging IEPs)

III c). Student Equal Opportunities: Special Ed

Arlington Central School District v. Murphy (2006)

(parents cannot recover expert witness fees)

Winkelman v. Parma City School District (2007)

(parents can sue in their own name)

Endrew F. v. Douglas County School District RE-1

(2017) level of services)

IV a). Teacher Rights: Dismissal

Cleveland Board of Education v. Loudermill (1985)

(educators with tenure/continuing contract status are entitled to a hearing before dismissal)

IV b). Teacher Free Speech Rights

Pickering v. Board of Education of Township High School

District (1968) (free to speak on matters of public concern)

Mt. Healthy City Board of Education v. Doyle (1977)

(teachers do not get additional rights to speech)

Connick v. Myers (1983); *Garcetti v. Ceballos* (2006) (must weigh impact on governmental operations)



IV c). Teacher Unions

Abood v. Detroit Board of Education (1977)

Chicago Teachers Union, Local No. 1, AFT, AFL-CIO v. Hudson (1986)

Lehnert v. Ferris Faculty Association (1991)

Davenport v. Washington Education Association (2007)

Ysura v. Pocatello Education Association (2009)

(all upholding fair share fees and limits on the abilities to collect dues)

V). School Finance

San Antonio Independent School District v. Rodriguez (1973)

“[e]ducation, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected (p. 35).”

VI. Conclusion

Knowledge is power . . .

Francis Bacon