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Impact and Implications of Litigation on Small Rural School Districts: A Study of Selected Western Pennsylvania Public School Superintendents' Perception and Knowledge of School Law

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IMPACT AND IMPLICATIONS OF LITIGATION ON SMALL RURAL SCHOOL
DISTRICTS: A STUDY OF SELECTED WESTERN PENNSYLVANIA PUBLIC
SCHOOL SUPERINTENDENTS' PERCEPTION AND KNOWLEDGE OF
SCHOOL LAW

A Dissertation

Submitted to the School of Graduate Studies and Research

in Partial Fulfillment of the

Requirements for the Degree

Doctor of Education

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ABSTRACT

Title: Impact and Implications of Litigation on Small Rural School Districts: A Study of Selected Western Pennsylvania Public School Superintendents' Perception and Knowledge of School Law

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The need for superintendents to respond correctly to the myriad of legally charged situations is vital to the success of a school district. In small rural school districts, without the benefit of extensive financial resources or large administrative bureaucracies, many of the day-to-day legal challenges are handled solely by the superintendent of schools. The study presents the perception and knowledge of at least fourteen public school superintendents, their views of the numerous legal challenges encountered and the impact of litigation on the school district, and what should be the legal training for superintendents in small rural school districts.

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Dr. Henry D. Sinopoli

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CHAPTER 1

STATEMENT OF THE PROBLEM

Mark Twain (1900), an American humorist quoted at one occasion, “When I was a boy on the Mississippi River, there was a proposition there to discontinue public schools because they were too expensive. An old farmer spoke up and said if they stopped the schools they would not save anything, because every time a school was closed a jail had to be built.” He may have made this statement as a matter of humor, but this indicates that even a semi-literate old farmer knew well the dire need of education in a society without which the possibility of creating more criminals could not be disregarded. That could be either by making the new generation equipped with the legitimate ways and means of a livelihood through proper education, or motivating them towards criminal activities to manage everyday expenditures because they are not responsive to the laws society encourages for respectful living.

Necessity of Education

The necessity of education, no doubt, has emerged as a vital prerequisite and requirement of the present day society to enable people to educe a source of revenue and prevent poverty. A basic education enables people not only to read, write, and know about worldly affairs, but it also equips them with simple arithmetic as a powerful tool to take care of themselves and their families. Education prepares one to get a job, to do some entrepreneurial activity, and to make better and advantageous use of indigenous knowledge in day-to-day life.

Going deep into the educational history of the USA, in his article *Urban and Rural Schools: Overcoming Lingering Obstacles*, Paul Theobald (2005, p. 116-117) points out:

For a large part of America's history--the first 50 years or so--we had no formal system of public education. This is not to say that there were no schools. Quite the contrary, the nation boasted a large array of private, charity, religious, and partially public-funded schools. Most of these were in the northern states, for during the first 50 years of our nation's history the institution of slavery stood as an obstacle to the proliferation of schools in the South. When the common school concept was finally deemed to be an acceptable feature of life in the United States, it was no coincidence that it began in states with major urban centers, Massachusetts in particular. However, like most large-scale societal projects, the creation of the common school was actually tied to many sets of converging circumstances.

As a social responsibility, education is the most perceptible of local government functions and is often the center of a societal climate in which the protection of individual rights is not only expected but demanded. Reglin (1992) notes, "The lawsuit is the major weapon in the arsenal of those who wish to change American public schools" (p. 26). However, as Shoop and Dunklee (1992) add, "Effective school administrators do not want to win lawsuits; they want to avoid them altogether" (p. 2). Alexander and Alexander (1984) held that:

During the last generation, Americans have witnessed an explosion of litigation affecting education. Courts have become much more actively involved in aspects of education that were heretofore left entirely to the discretion of school administrators and school boards. Teachers', students', and parents' rights have been asserted in legal actions against school authority producing a vastly expanded field of judicial precedents which have tended to reshape American education (p. 2).

This increased litigation evidences the inexorable march of new precedents that continue to form the law of education. The evolution of the law gives new shape

to the public schools and the emergence of social forces prescribing and foretelling the direction of the law. This clear pattern of the ebb and flow of education law reflects a discernable indication of a growing involvement of the courts in public education.

The Problem

Between 1789 and 1980, approximately 40,000 court cases affecting public education were litigated (Hogan, 1974, p. 6). However, there were only nine cases that made it to the United States Supreme Court between 1789 and 1900 (Koenig, 1978, p. 12). Two trends are evident; first, most of the cases involving public schools have occurred in the past twenty-five years; and second, since 1956 there has been a significant increase in the number of federal cases and a similar decrease in the number of state cases. This extensive amount of case law involving public education has been compiled and reviewed. Currently, there is a need to review the current generation of school law education and to determine the extent that public school superintendents are knowledgeable about the principles of school law.

This is especially true of superintendents from small, rural school districts that face unique obstacles in dealing with litigation that make service in such districts particularly more difficult. Some of these obstacles include isolation, limited resources, and insufficient administrative assistance.

Problem Statement

The study is based on the fact that no data currently exists to determine the types of litigation occurring in small rural school districts and the impact on

the districts, as well as the superintendents. This study will also examine how superintendents in small rural school districts manage the impact of litigation, especially as related to the myriad of issues facing public education. This study advances knowledge in the field, contributes to the literature on superintendent preparation, and makes recommendations for practice.

According to the policy of the Commonwealth of Pennsylvania, an individual aspiring to the position as superintendent of public schools must complete preparatory course work as well as serve successfully in subordinate positions in the public school system. In recent years the position of superintendent has developed into one that requires additional and seemingly more in-depth knowledge of law and the legal system because of the wide range of legal issues that influence the lives of teachers, students, parents, and administrators (Fischer, Schimmel and Stellman, 2003). With so many legal questions facing superintendents, some pertinent questions come to the fore, e.g., (1) How can a school district be certain the individuals hired for the positions of Superintendents of Public Schools are capable or prepared to deal with these concerns? (2) Are superintendents in small rural school districts prepared to handle legal issues?

Advocates of larger school districts cite the advantages of increased, concentrated resources and the efficiency of a large administrative staff to address complex issues facing schools (Hannaway and Kimball, 2001). Superintendents in small rural school districts without a large administrative staff

for collaboration must meet the same increased legal mandates with a small managerial staff and limited external support.

As per the Pennsylvania Letter of Eligibility containing current curriculum on the eligibility conditions for superintendent certification, the current requirements reveal accrediting institutions require minimum course requirements for understanding the law and legal system. This raises an issue; are superintendents in school districts prepared to implement federal mandates as complex as No Child Left Behind? Ullian (2006) reported that “decisions once made by school administrators and local boards have increasingly become the province of the courts” (p. 2). Disparities may become apparent by examining superintendents regarding preparation, perceptions, legal responsibilities, and the ability to perform legal functions. Determining what superintendents in small rural school districts know (or don't know) about the law, identifying their perceptions of school law, determining where they obtain information about school law, and gathering information in relation to their preparation in legal studies is the focus of this paper.

“The nature of the position of superintendent of schools is extremely public, highly scrutinized, and time-demanding...” (Glass and Franceshini, 2007, p. 11). Arnold (2004) reported that a problem with recruiting and retaining administrators, who are prepared to sustain a learning environment where all students meet high standards, begins in university administrator preparation programs. The study revealed that administrator preparation programs are geared for training urban and suburban school leaders. The researcher

questioned whether the community in which the administrator works has an effect on the knowledge and skills of successful rural superintendents.

Hoy and Hoy (2003) contended that the superintendents affect student learning by how well they articulate policy into practice in rural communities and schools. "Superintendents also live in the real world of budget shortfalls, state takeovers, equity lawsuits, deteriorating facilities, union contracts, and demands that call for greater accountability" (Cohn, 2005, p. 157). Research based on scientific study of the rural superintendent is scant (Arnold, 2004; Sherwood, 2000); this lack of data insures that rural issues will continue to be ignored (Sherwood, 2000).

Purpose of the Study

The intention of this study is to identify the particular nature of legal issues in rural school districts and to examine the extent to which superintendents currently serving in small rural school districts in the Commonwealth of Pennsylvania are prepared to address the complex legal issues that frequently arise in rural school districts. Further, this study hopes to identify the practices of these superintendents when they are confronted with legal questions. The superintendent's position, especially in small rural school districts with a small front office staff, is rapidly changing to address the ever-expanding social and economic needs of today's constituency. Changes in the preparatory requirements need to address the dramatic shifting community and ever-changing demands of government. A diversified knowledge base and a firm grasp of the laws interacting with education are necessary as superintendents

prepare to face increased threat of litigation. “When superintendents look back at how they spend their time over school years, half (50 percent) say legal issues and litigation got too much attention; 43 percent point to issues having to do with unions and collective bargaining” (Farkas, Johnson, Duffett, and Foleno, 2001, p. 9). This would indicate, in order to address superintendent’s perception of managing legal issues and litigation, universities will need to revise preparation programs to address increased social challenges and the complex myriad of legal issues confronting schools.

Research Questions

- 1) What types of litigation have school districts, and in particular small rural school districts, been involved in during the last five school years?
- 2) What has been the impact of litigation in small rural school districts?
- 3) What do the superintendents in small rural school districts do when legal problems arise?
- 4) How do the superintendents in small, rural school districts acquire knowledge or find materials to help them understand the laws applicable to legal problems when they arise?
- 5) What should be the legal training for superintendents in small rural school districts?

Significance of the Study

Often superintendents are afraid of lawsuits out of ignorance, rather than acquiring adequate legal knowledge. Perry Zirkel, an education law specialist from Lehigh University, revealed that most school administrators and teachers

have the impression that schools are frequently being sued and faced with unfavorable rulings by the courts. Zirkel revealed that courts today are most likely to favor the school than either students or teachers (2006). This demonstrates that without adequate legal knowledge, many superintendents may be making decisions on the bases of law versus lore.

Knowledge of public school law is essential because the lawsuit is the major weapon of those who wish to challenge public schools. Hulsizer (1987) contended that public education as an institution was on trial. He cited court cases in Tennessee and Alabama that challenge the basic premise of public education. Superintendents make hundreds of decisions involving legal issues yearly. Fischer, Schimmel, and Kelly (1981) pointed out that educators that ignore the law do so at their own peril, and McDaniel (1979) noted that ignorance of the law is no excuse. Today in the United States, thousands of suits are brought against education every year.

Definition of Terms

1. Pennsylvania Letter of Eligibility (Pennsylvania Department of Education)
 - a. Individuals who have completed a Pennsylvania approved graduate-level program of educational administration study minimally approximating two full academic years for the preparation of chief school administrators; or
 - b. Have provided evidence of six years of teaching or other professionally certified service in basic schools for the Assistant Superintendent's Letter of Eligibility and for the Superintendent's

Letter of Eligibility three of those six years must have been in a supervisory or an administrative capacity

- c. Have been prepared through an out-of-state graduate level program equivalent to the approved Commonwealth of Pennsylvania requirements.
- d. Have received the recommendation of the preparing institution for certification as a Chief (district level) administrator or if prepared through an out-of-state institution, holds a certificate issued by another state for professionally certified service in basic schools for the Assistant Superintendent's Letter of Eligibility, and for the Superintendent's Letter of Eligibility, three of those six years must have been in a supervisory or administrative capacity.

- 2. Superintendent - An individual who has met the requirements for the Certificate of Pennsylvania Letter of Eligibility.
- 3. School Law - School law as a field of study is a generic term covering a wide range of legal subject matter including the basic fields of contracts, property, torts, constitutional law, and other areas of law that directly affect the educational and administrative processes of the educational system. There are four types of school law: federal and state Constitutional provisions; federal and state statutory law of which codes are a part; administrative rules and regulations, including those from federal, state and local agencies of government; and judge-made laws.
- 4. Practice of the Federal Law - The Federal judiciary has a pervasive and significant force in influencing educational policy. Educational issues that

started with racial segregation were soon joined by financing schools with percentages of low income students. No Child Left Behind (NCLB) is the latest federal legislation; it enacts the theories of standards-based education reform. State government has plenary power, which is diminished when the state accepts federal education funds, because this requires compliance with federal mandates (Ullian, 2006). Although the prevailing belief is that public schools are locally controlled, when the federal government and states finance education, the local school system must comply. NCLB may not be enforced arbitrarily or capriciously; it must be addressed as appropriate legal authority. Only the public schools must guarantee – that within a legally enforceable range – the amount spent on each student will be equal from school to school within communities and across the state where those students reside (Murphy, 2003).

5. Small Rural School District – Includes a school district where the economic emphasis is agricultural or recreational. Population density is low and school district population is fewer than 2,500 students. There may be pockets of development as in a borough or village, but typically the area is comprised of open space. Infrastructure such as sewer and water do not serve the entire area. In small rural school districts, large portions of tax-exempt property would generally be for public parks, game lands, or forest (Pennsylvania School Boards Association, 1993).

Limitations of the Study

This study examines school superintendents in small rural school districts in Western Pennsylvania. It includes their understanding of legal knowledge needed in current positions to manage litigation in the school district. This study is limited to the last five school years. Information about course offerings for the Letter of Eligibility for superintendents is limited to the published material issued by the granting institutions during the last five academic years. It is limited to the framework and methods employed. It is limited to rural Western Pennsylvania public school superintendents. Considerations of legal knowledge are limited to legal aspects and definitions of school law.

Summary

Negotiating the school climate is becoming more legally complex. Superintendents must be more responsive to understanding the law as it relates to education.

The role of the superintendent traditionally addresses instructional issues but our litigious society requires a stronger foundation in legal studies to attempt to circumvent legal minefields. Superintendents in various preparation courses for the Letter of Eligibility are traditionally required to be aware of basic legal issues facing public education. Preparation must attempt to address this complex myriad of legal issues facing the schools. Some observers have expressed reservations about whether our teaching institutions are capable of altering their leadership preparation programs to effectively educate superintendents to lead schools mandated with high-performance goals (McCarthy, 1999; Tucker and

Codding, 2002). Accountability demands placed on districts promulgated questioning leadership practices and how they influence student learning (Farkas, Johnson, Duffett, Syatt and Vine, 2003). Frederick Hess (2003) reported that the aim of educator preparation should not be to seek consensus or new orthodoxies, but to recognize that management is an imperfect act, practiced successfully in multiple ways and drawing upon diverse skills. "Programs ought to take pains to broaden the spectrum of ideas that students encounter, embracing readings and insights from beyond the educational community. Reformers would be well advised to ... increase the use of case studies that examine management in private and public sector contexts beyond K-12 schooling" (p. 513). Stein (2006) contends that using problem-based learning in preparation programs would be a more realistic method when she said, "Problem-based learning puts aspiring leaders in the position to make decisions, face consequences, role-play interactions with various constituents, and learn by doing (p. 522). Both case study analysis and problem-based learning would be applicable to the study of law in learning institutions. The U.S. Department of Education (2005) reported that conventional preparation programs need to be more innovative and need to include intensively focused components and authentic course-and-fieldwork. Most states stipulate specific degrees, majors, course content, internships, and other preparation experiences for certifying district leaders; these certification requirements influence the content and scope of graduate programs (Anthes, 2004).

As the decision-making authority, local school boards were overlooked in reform efforts (First, 2003). Goodman and Zimmerman (2000) reported that many school boards were required or allowed by state law to engage in the operational detail of a school system. Edwards (2000) notes, "How absurd to perpetuate a system in which orders are handed down to educators from a (school) board composed of people, who, by and large, are not educators" (p. 22). John Carver (2000), whose policy governance model assigns the school superintendent a role parallel to that of the corporate CEO, claims the "school boards have traditionally micromanaged the educational process, something that would spell doom for any manager in a business setting" (p. 26). It is the highest-ranking professional who is hired by and reports to the school board who must validate the (lawful) process of policy implementation - the superintendent (Glass, 2006). Due process litigation is laden with legal standards, educational theory, and clinical jargon. School superintendents must be certain their decisions and actions conform to the law; a literacy baseline must be established by granting institutions. Ullian (2006) reasons that "administrators must be able to answer two simple questions regarding school law: What can I do? What should I do?" (p. 1).

When superintendents face the day-to-day educational realities as well as a charged legal climate, the working parameters are more complex. Administrators, especially superintendents, must be more responsive to understanding the law related to schools. While the superintendent must address instructional challenges, current expectations require a keen, in-depth knowledge of current legal issues to proactively navigate the litigious minefield

accompanying every aspect of a superintendent's decision making authority to satisfy all stakeholders in today's school society. This is especially true in small rural school districts without the benefit of a large administrative bureaucracy and isolated from large and/or sophisticated legal networks.

CHAPTER 2

REVIEW OF THE LITERATURE

The litigation in small rural public school districts will be discussed throughout the chapter. The goal in this chapter is to precisely discuss the interaction of schools and the law through the administration of public schools, institutional vulnerability and correlations in the literature about legal literacy and the impact of litigation on public schools. Also discussed is the role of the superintendent and his/her relationship to governance and legal conflict, school law, and superintendent's perception of special problems facing superintendents in small rural school districts.

The impact of litigation on policy and practice and the difficult legal problems and issues faced by practicing Pennsylvania Superintendents of Public Schools are outlined. Legal training and the educational needs as they relate to the Pennsylvania Letter of Eligibility, superintendent training, school law, and the practice of Federal law are delineated throughout.

A review of the literature indicates curriculum requirements and preparatory work for administrative positions has been studied for a variety of aspects: assessment of programs (Anderson, 2004; Cooper, Fusarelli and Carella, 2004; Donmoyer, 1999; Forsyth and Murphy, 1999; Lashway, 2001; Sametz, 1983); assessment of legal education (Daugherty, 2004b; First, 2003; Gullatt and Tollett, 1997; Johnson and Duffett, 2003; Patterson and Rossow, 1996; Sametz, 1983); government policy or program development (Council of Chief State School Officers, Interstate School Leaders Licensure Consortium,

1996; Pennsylvania Department of Education, 2004; Spillane and Regnier, 1998); and leadership development (Chalker, 1999; Day, Harris, Hadfield, Harry and Beresford, 2000; Grogan and Andrews, 2002; Leverett, 2001; McCarthy, 1999; Shapiro and Stefkovich, 2001; Tucker and Coddling, 2002).

Educators began discussing issues concerning the on-going quality of teacher education programs prior to the publication of *A Nation at Risk* (National Commission on Excellence in Education, 1983) by initiating a process to enhance and strengthen the educational profession through the development of the National Council for Accreditation of Teacher Education (NCATE) in 1995. Preparation agendas for superintendents have changed very little. Professional education programs for the Pennsylvania Letter of Eligibility, the certificate for earning a commission as a superintendent, have defined criteria for admission that evaluate a candidate's potential for leadership through written and oral examination. Many of the requirements are forcing administrators and preparatory institutions to question the current methods and procedures to train school leaders. "Despite recent signs of change, administrative preparation programs remain under attack for being too theoretical or insufficiently rigorous (Cooper, Fusarelli, and Carella, 2000, p. 243). Ensuring qualified, successful candidates for future administrative roles entails a practical approach to foster leadership rather than developing managers with a custodial mentality dependent on outside legal expertise to provide definitive answers to daily questions. The superintendent's position is rapidly changing to address the ever-expanding social and economic needs of today's constituency. Changes in the preparatory

requirements need to address these dramatic shifts. A diversified legal knowledge base, contemporary leadership theory, and a firm grasp of statutory obligations are necessary for superintendents to be successful leaders in today's educational arena. The emerging concept of preventive law and its promise for avoiding legal conflict along with increased communication among educators and parents, better understanding of education law, stronger implementation of policies and procedures, internal review of school district policy, and an emphasis on preventive law will require a shift in current preparatory programs.

Correlations in the Literature about Legal Literacy

Patricia First (2003) reflects in her Guest Editor's Note in the *Educational Administration Quarterly* (EAQ) that the entire April, 2003 issue of *EAQ* was devoted exclusively to research on the law and education. The sophistication of legal research including: the kinds of law analyzed; Constitutional and court case analysis; statutory interpretation and analysis; policy analysis, forecasting, and critical theory; and evaluation techniques and impact analysis indicate the complexity of simple legal analysis. Superintendents attempting to evaluate the kinds of law affecting children and schooling require additional knowledge-based instruction in the law to ensure they do not regard legal research as an esoteric analysis of legal gibberish. First stated, "The law is the way our society balances competing interests, and it is as important to know what the law allows as it is to know what the law forbids...the educator who knows, understands, and uses the law well, is a crucial actor in the continual striving for a just society" (p. 142). A rigorous educational base will enable superintendents to understand and use the

law critically to support the school district and maintain a just society for the students.

Superintendents are bound by need to develop powerful networking communities within professional circles to attempt to find resources to assist them through perilous legal issues. Universities should revise preparation programs to provide school district leaders with the knowledge and skills to create well-focused learning organizations. Superintendents need a thorough grounding in the complexities of today's instructional leadership; few courses in curriculum and supervision will no longer do the job (Lashway, 2001).

This is especially true in the area of law where situations put superintendents in danger of losing their professional certification credentials because of a failure to either act or to withhold an action because of the lack of basic legal knowledge. Johnson and Duffett (2003) report that "litigation and the threat of litigation often take a personal toll on professionals in education; an unwarranted charge and the prospect of dealing with litigation can create enormous anxiety and anguish, sometimes enough to derail a career" (p 189). With the myriad of legal issues confronting the superintendents, many are not adequately prepared to negotiate the school district through tough issues.

Responsibilities of today's rural superintendent include: supervising and evaluating staff; recruitment, selection and compensation of staff; contract management and negotiations; effective and progressive technology management; school finance; issues related to special needs students; increasingly diverse student populations; creating safe classrooms; high-stakes

accountability; discipline, truancy, and drug testing; and a multitude of other interposing relations having a direct correlation for the need of rural superintendents to have advanced legal knowledge.

The superintendent's position is rapidly changing to address the ever-expanding social and economic needs of today's constituency. Murphy (1992) reports, "at a fundamental level, school administration is being reshaped by forces in the environment that, regardless of the internal health of the profession, demand we rethink the business of school leadership" (p. 18).

Lawsuits continue to play a critical role in the evolution of the United States public and private education system. In their historical review, Tyack and Benavott (1985) state "law (is) responsive to powerful social changes and (is) an index of power...(we) suggest a connection/s between litigation and the changing character of authority and power in public education" (p. 347). As long as the public school system remains to be one of our country's central mechanisms for social and economic improvement, litigation will continue to impact its operation.

A revolution challenging the authority of institutions and leadership began in the 1960's. This resulted in increased litigation for school districts attempting to manage the divergence in assorted relationships between governmental and community and school values. The once clearly defined chain-of-command with the superintendent as educational leader became tangled in state, federal, and community interference. The school board and the school-community held the superintendent accountable for outcomes over which s/he has no control.

Often parents and teachers expect a part in the decision making agenda.

Numerous issues with potential litigation consequences develop on a daily basis and must be addressed by the superintendent immediately.

In 2001 Paul Houston, executive director of the American Association of School Administrators, said, "There are really just four problems with the current leadership system: the job is impossible, the expectations are inappropriate, the training is inadequate, and the pipeline is inverted" (p. 6). These requirements are forcing administrators and preparatory institutions to question the current methods and procedures used to train school leaders. Cooper, Fusarelli, Jackson and Poster (2002) held that "despite recent signs of change, administration preparation programs remain under attack for being too theoretical or insufficiently rigorous" (p. 245). To ensure lawful administrative conduct, educators need a systematic study of the sources of law under which they operate.

Schools and the Law

Administration of Public Schools

The Public School System in Pennsylvania is administered through the Superintendents of 501 Public School Districts that are generally selected by the school board of the local school district. Public school superintendents are held responsible for everything that happens in every school within their district from elementary and middle schools through high school (K-12). S/he is accountable to the school board on behalf of everyone employed by the school district. As the chief executive officer of a public school, the superintendent has oversight for

what is often one of the largest businesses within the community the district serves. The school superintendent must be able to evaluate and use legal and professional services to the best financial benefit of the district because s/he has overall responsibility for personnel selection and appointment, preparation of operating budgets, implementation of school policies and regulations, evaluating and understanding bids, contracts, contract management, and evaluation of out-sourced services (Glass, 2006). The school superintendent must be knowledgeable in areas of school law, school finance and investment strategies, school construction, technology, curriculum and teaching, learning styles and methods, team-building, and skill at seeing the district as it relates to the community. This administrator must be able to pull many small segments into a cohesive and productive unit. In a nutshell, a public school superintendent can be held responsible for everything good or bad that happens in any of the public schools under his or her jurisdiction.

Superintendents must deal with conflict and seek amenable solutions. Guided by the legal framework for public education including federal, state, and local law, the superintendent is compelled to respect the rights of students while providing edification. Educational research indicates (Fischer et al., 2003) there is “a wide range of legal issues that influence the lives of teachers, students, parents, and administrators” (p. xiii). “Since 1950 education has experienced a significant increase in litigation and a need exists for superintendents to ensure districts are proactive in examining, creating, and maintaining district policies and procedures” (Hawkins, 1986, p. 1). While many cases have advanced positive

social change, they have also generated unprecedented pressures on school districts and their chief school administrators. Superintendents acknowledge rights to ensure equal access, delivery, and accountability of public education. The fear of being sued creates an indeterminate amount of hesitation in decision making because of the necessity to review the circumstances with a solicitor, or when decisions are made contrary to an innate value system.

The possibility of being sued or being accused of a legal violation is ever present with public school superintendents, consequently to avoid potential litigation they must respond appropriately to a myriad of legally charged questions involved in day-to-day managerial decisions; this is vital to leadership efficiency and the success of the school district. Research shows that preparatory legal study, case analysis, and an understanding of the nuances of the law increase an administrator's chance of sustaining successful leadership. Serving as a Superintendent of Schools is undeniably one of the most demanding careers in education; this station is vulnerable to dismissal with relatively few safety nets and no second chances. With the United States Constitution as a guiding force, there are copious laws, rules, policies, and regulations at the local, state, and federal levels which the superintendent is responsible to know and follow, such as: subsidies, contractual obligations, federal, state, and educational requirements, special needs students, graduation necessities, and fair treatment of both students and employees. If regulations are not followed as stated by the law, the superintendent is held responsible for oversights, errors, omissions, and illegal activities.

Impact of Litigation on Public Schools

The literature concludes that school litigation has significantly impacted public schools and employees. There has been an increase in litigation of 20 percent between the mid-1980's and mid-1990's (Valente and Valente, 2001). While more districts may win more court cases than they lose, the cost and perceived threat of litigation creates an atmosphere of fear in schools (Fischer, et al., 2003; Zirkel, 2006). Litigation requires school districts to make both a fiscal and personnel investment (Gullat and Tollet; 1997; Johnson and Duffet, 2003; Patterson and Rossow, 1996; Underwood and Noffke, 1990). Educators are reducing and eliminating many programs due to liability concerns and taking on defensive strategies in an attempt to avoid litigation (Joyce, 2000). Building a familiarity with laws and the limits of what they can and cannot do...they [educators] must be certain that their actions and decisions are in conformity with the law (Ullian, 2006, p. 1). While numerous organizations, such as the Pennsylvania School Boards Association (PSBA), Pennsylvania Department of Education (DOE), Pennsylvania State Education Association (PSEA), etc., alert educators to the importance of legal training and knowledge, of the twenty Pennsylvania schools that offer approved certification programs for the Pennsylvania Superintendent's Letter of Eligibility only two, Lehigh University and Shippensburg University require more than one general school law class as part of the requirements for a Letter of Eligibility (Pennsylvania Department of Education, 2004).

Impact of Litigation on Policy and Practice

Historically the educational system of the United States has been highly localized with almost total control centralized in local communities. Funding has been controlled by elected local school boards, and supported primarily through the use of property taxes. The word education was not included when the United States Constitution was written. When drafted, responsibilities and functions not specifically provided to the federal government were reserved for the states. Because education is not specifically mentioned in the Constitution, the Tenth Amendment makes education a state function and responsibility. The Tenth Amendment states, “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” (United States Constitution, 1787, p. 3). This provision has been interpreted to assure the states, not the federal government, the right to educate the citizens within their respective borders.

Along with constitutional responsibility, governments do not have *rights* – only *responsibilities* or *duties* or *authority* or *powers*. Only citizens have rights; one of these rights is to educate the students within their respective borders. Because education is not within the purview of the federal government states have the responsibility to *educate the educators* of the students within their borders. This responsibility in a majority of states is delegated on a day-to-day basis to local school districts. Local school districts, served either by elected or appointed members turn administration of the local school district to the

superintendent of schools. Superintendents' responsibilities include working in close consultation with the local boards of education to plan and coordinate the activities of local school districts. Superintendents are vested with specific authority in Pennsylvania by earning a Superintendent's certification or a Letter of Eligibility.

In order to earn a superintendent's certification in Pennsylvania, candidates must meet certain prerequisites at one of the accrediting colleges or universities, and successfully complete a required number of courses to qualify. Preparatory schools of education have been marked by differences among groups of scholars of education, scholars in other fields and disciplines, school administrators, and teachers as to the correct methodology and content to prepare administrators. In many instances this has resulted in jurisdictional competition in dealing with various areas of human services. Put in this perspective, the continued development of educational research suggests that jurisdictional challenges will continue to preclude sustained agreement about the methods of preparing school administrators.

Frequency of Litigation and Financial Impact

Court proceedings reflect an increase in settlements related to educational matters. The National Education Association (NEA) reported that approximately 14,500 teacher employment disputes resulted in expenditures by the organization's legal fund of \$24,650 million in 1992-93 (Patterson and Rossow, 1996, p. 38). These NEA figures do not include tort claims. Applying a discovery by Underwood and Noffke (Pell, 1994) that 42.5 percent of all education cases

involve employee issues to the information supplied by the NEA, we extrapolate that in the same time frame, teachers and their districts were involved in at least 27,500 legal disputes in such matters as employee relations, negligence, special education, and discipline practices (p. 26). School districts are absorbing the cost of lawsuits amounting to \$45,000 to \$400,000 per year with over \$200 million nationally spent on attorney fees (Underwood and Noffke, 1990). Because of the financial burden to districts “the superintendent must be well prepared to be the primary partner with the school district and solicitor to initiate and prepare the necessary substantive documents to establish causation” (Gullatt and Tollett, 1997, p. 129).

The Role of the Superintendent

Superintendent Governance and Legal Conflict

The involvement of superintendents in legal conflict is nothing new; it is the court’s attitude after 1950 that is very different. Since then, the safeguard of individual rights emerged in our society. Education is one of the most visible and utilized of local governmental functions, consequently it is often at the center of change. Superintendents as school leaders, in many instances, have the task of settling disagreements effecting school districts pertaining to individuals and/or groups. The resolutions can range from a simple discussion and clarification of facts to lengthy litigation. Superintendents must deal with conflict and bring about acceptable solutions. Consequently, knowledge of sophisticated conflict resolution skill is a requisite aspect of the superintendent's position. Whether it involves teacher dismissal, student expulsion, or religion in the schools the level

of emotions runs high. Only in small rural school districts does the superintendent find herself or himself to be the sole administrator in the community, and often the only target of public and professional criticism. Superintendents are involved in all major legal disputes occurring in school districts. Litigation is costly in terms of financial resources, personal and professional time, and emotional energy. An awareness of legal issues requires a better understanding of the problems and challenges faced by superintendents in small rural school districts

School Law and the Superintendent

Responsibilities of today's superintendent include supervising and evaluating staff, recruitment, selection and compensation of staff, contract management and negotiations, effective and progressive technology management, school finance, issues related to special needs students, increasingly diverse student populations, creating safe classrooms, high-stakes accountability, discipline, truancy, and drug testing, and a multitude of other interposing relations having a direct correlation for the need of advanced legal knowledge. The sheer volume of structural issues in school districts with no coherent approach prohibits many superintendents from building a consistent foundation for instructional improvement. Lashway (2003) said that "the most instinctive response to the new challenges facing school leaders is to simply work harder; and while most school leaders have clearly done this, they may be reaching a point of diminishing returns" (p. 9).

The importance of legal research and a strong legal knowledge base for the school administrator can be emphasized by some of the immediate concerns

confronting schools today. Drugs, violence, gender issues, school choice, cyber law, zero-tolerance policies, religion, and many other issues confront the superintendent daily. Superintendents also require proficiency in areas relating to a general overview of the legal status of the school, common law considerations, and desegregation including defacto segregation, church state relations, and general free speech concerns (Nolte, 1971). When faced with these issues, administrators are destined to either hesitate to act with conviction, or react in such a manner that predestines the school district to additional legal costs through court challenges. Front line administrative hesitancy or error eventually becomes the responsibility of the school superintendent. These additional tasks and responsibilities, along with state and federal mandates, add even more work to the already heaving educational plate of the superintendent (Glass, 2006).

Curriculum requirements and the need for legal education have been studied for administrative positions for a variety of aspects particularly in the assessment of programs of legal education (Daugherty, 2004a; First, 2003; Gullatt and Tollett, 1997; Johnson and Duffett, 2003; Patterson & Rossow, 1996; Sametz, 1983). These studies have sought to determine the impact of increased litigation and legal issues upon school administration leadership capabilities, especially the superintendent's position, development of relevant curriculum, government mandates and intervention, and the leadership models to address current issues and leadership capabilities.

School Leaders and Legal Knowledge

Ensuring qualified, successful candidates for future administrative roles entails a practical approach to foster leadership, rather than developing managers with a custodial mentality dependent on outside legal expertise to provide definitive answers to daily problems. Farkas, Johnson, Duffett, and Foleno (2001) state that “a large majority or 80 percent of superintendents and 69 percent of principals agree that typical leadership programs in graduate school of education are out of touch with the realities of what it takes to run today’s school districts” (p. 31). The report also points to the fact that 64 percent of respondents said the most valuable experience for the superintendents’ position was serving as a principal first (p. 30). These factors reaffirm the realities of experiencing the situations, having time to ponder them through, and having the time to develop a strong foundational base for future situations. It is one of the basic requirements in the study of law, e.g., learning the value of precedent, the past to apply to the current or future situations.

Superintendent and the Legal System

The law of schools includes every area of jurisprudence that involves the operations of a school system. While references are made about school law, there is no one specific system of law that encompasses every situation involving schools. School law is a generic term covering a wide range of legal subject areas. The subject matter includes contracts, property, torts, constitutional law, criminal elements, and all other areas that address the educational and administration of every state system of education. Because education was not

specifically addressed in the United States Constitution, the control and governance of education rests with the state and local levels of government. The power of operating school systems originates with a state constructional delegation to the legislature to provide for a system of education. The state system, empowered by the legislature, maintains its authority and control comes from constitutions, statutes, court or case law, and common law.

The involvement of the judiciary has generally been limited under the concept of *separation of powers* when confronted with education questions. One court in describing the hesitancy of the courts to interfere with the other two branches of government said:

This reluctance is due, in part, to an awareness of the sometimes awesome responsibility of having to circumscribe the limits of their authority. Even more persuasive is an appreciation of the importance in our system of the concept of separation of powers so that each division of government may function freely within the area of its responsibility. This safeguarding of the separate powers is essential to preserve the balance which has always been regarded as one of the advantages of our system (Alexander and Alexander, 2001, p. 3).

Historically, the organizational structure of the U.S. educational system has been successful in educating students based on the social structure and philosophy that governed the land. The American system based on three legal cornerstones: (1) expansion of knowledge, (2) protection of liberty, and (3) guarantee of equality, has been maintained by separateness of each (Alexander and Alexander, 2003). The cornerstones remain protected, but increased challenges to fundamental foundational premises of educational authority and litigation require administrators to encompass a more thorough understanding of the law.

Today public schools have formal policies and rules covering almost every aspect of the educational process. Enforcing schools various policies, procedures, and regulations is premised on basic fairness as the main precept of procedural due process. The past thirty years have seen the courts expand and extend to students and employees of public schools increased procedural rights under the United States Constitution (Lane, Connelly, Mead, Gooden, and Eckes, 2005). The legal issues and scope of review of each issue pertaining to public schools has increased the need for school administrators, specifically superintendents, to increase legal knowledge and understanding of the potential litigation issues.

Special Problems with Rural Schools' Legal Issues

Challenges Faced by Small Rural School Superintendents

Lamkin (2006) revealed that rural superintendents identified five areas that presented a challenge: school law, finance, personnel, government mandates, and district or board policies. Each of these areas has profound implications for litigation in school districts. Additionally, superintendents identified challenges related specifically to the rural setting and to the lack of acculturation to the demands of small rural school leadership. The study conducted in New York, Pennsylvania, and Tennessee indicated that the challenges of the small rural superintendent were distinct enough to warrant some specialized preparation for the position.

Pennsylvania Small Rural School District Challenges

Pennsylvania is the third most rural state in the United States, primarily due to the recession of the rural economy in the 1980's (Hillman, 2003). According to the 1999-2000 Common Core of Data (CCD) statistical database, of the 501 school districts in Pennsylvania 267 were categorized as rural; this is over half of the total school districts. Approximately 1.8 million students were enrolled in schools classified as rural; about 35 percent or 643,965 students were enrolled in rural school districts in Pennsylvania. In a 2003 study by The Center for Rural Pennsylvania both rural and urban superintendents provided concerns through a profile of Pennsylvania's superintendents. Researchers interviewed a total of 307 superintendents with a response rate of 61 percent. Rural and urban superintendents revealed very similar characteristics. A 2004 study by Arnold noted that rural school districts face a different set of challenges than their urban and suburban counterparts. Rural administrators have to assume more responsibilities in small districts because there are fewer administrators in the district. Being a superintendent in a small rural school district is a difficult job that fewer people are willing to accept. While most issues were similarly revealed, a majority of rural superintendents said legal issues and litigation received a disproportionate share of their attention.

The Preparation of Superintendents

Institutional Vulnerability

The citizens of the United States are a litigious people. They have been for a long time; in fact over a hundred years ago the Frenchman, Alexis de

Tocqueville, wrote that in the United States all issues sooner or later become a subject of judicial debate. The institution of public education functions in a complex legal environment, factoring a wide range of legal issues influencing all shareholders partaking in the services of schools. Based on statistics, litigation involving public schools are on the rise (Kemerer and Walsh, 2000; Redfield, 2002). Once upon a time the institutional sovereignty was unchallenged and disciplinary powers of schools were quite clear. There was a seamless line between parents and teachers with teachers serving as *in loco parentis*, literally serving in place of the parent. In the last century this doctrine has been whittled away as institutional control became viewed in a wider context, as a means by which the larger mores of society were inculcated, versus institutional control. We live in a society where 1,200 to 3,000 suits are brought against teachers and administrators every year (Reglin, 1990). This may be indicative of our litigious society, or it may indicate that our school administrators are ill-prepared to understand legal issues. Hillman (1998) and more recently Higham, Littleton, and Stryon (2001) have shown that a substantial number of educational administrators have difficulty staying abreast of developments in the area of law as it pertains to K-12 institutions, and that more than 50 percent of school administrators are unable to pass a basic law test. Research completed by Kallio and Valadez (2002) suggests that many school districts have adopted a reactive rather than a proactive philosophy with regard to the legal training of administrators.

Based on research, preparation programs for administrators need to be aware of the changing demands and must either provide proactive or reactive legal training for prospective superintendents. While much of the work of the principal has a legal dimension, superintendents usually assume they are the first line of legal defense for the school district (Redfield, 2002), and therefore utilize their personal relationship with the district solicitor and personal relationship with outside forces to deal with legal ramifications.

Legal Problems and Issues

While education law is a fundamental and critical knowledge base for administrators, it is not a priority in school administrative preparation programs. Unfortunately, ignorance of the law (*ignorantia legis neminem excusat* – ignorance of the law excuses no one) is an excuse not easily tolerated or accepted by the courts, especially when the individual making the assertion of ignorance is a member of a learned profession.

Because of the many duties involved in the daily operation of public schools, the lack of legal education for prospective administrators remains a concern. What professional standards should superintendents meet? The American Association of School Administrators proposes eight standards based on a combination of policy-maker knowledge and extensive research. The standards serve as a foundation for the development and improvement of superintendents' preparation programs. The eight standards are: (1) leadership and district culture; (2) policy and governance; (3) communications and community relations; (4) organizational management; (5) curriculum planning and

development; (6) instructional management; (7) human resources management; and (8) values and ethics of leadership (Hoyle and AASA Commission on Standards for the Superintendency, 1993, p. 6-11). While encompassing many important details requiring specific knowledge, it does not address the specific need for legal training.

Susan J. Hillman, author of *School Administrators' Legal Knowledge: Informational Sources and Perceived Needs* (1998), designed and administered an informational questionnaire for a random sampling of 75 school superintendents in the Massachusetts Public Schools to determine resources administrators most commonly use to obtain both general and legal information. It also solicited opinions about how well-versed a particular group should be in school law. The findings determined the four major sources were: (1) newspapers read by school administrators; (2) common information shared between one another; (3) professional organizations; and (4) other resources available to superintendents but not available to others, for instance, the school solicitor.

Leadership of schools in changing times is burdened with opportunities as well as challenges. School leaders are expected to manage competing interests, to create conditions to form foundations for lifelong learning, sustain motivation for staff and students, and to raise achievement levels (Day et al., 2000). In the rapidly changing and litigious society we currently experience, administrators unanimously express a need for school officials to have some knowledge of education law (Hoyle et al., 1993).

Changes in the field of education gyrates from the overwhelming governance structure, community control, special education standards, student populations, privatization, and Federal intervention requiring additional attention by preparatory institutions to superintendent training (Spillane and Regnier, 1998). Interventions will require administrative preparatory programs to focus on good, solid, traditional education and the cognitive training to enable quick thinking on complex issues. This will require programs to stay on the cutting edge, current and willing to provide a broad perspective not just on education, but also in science, politics, cultural trends, business and many other areas.

Standards for School Leaders

Strategies were used to upgrade the quality of educational administrators by developing standards for school leaders that consist of indicators based on knowledge and performance. In reviewing the current *Council of Chief State School Officers, Interstate School Leaders Licensure Consortium (ISLLC): Standards for School Leaders* (1996), a school administrator is an educational leader who promotes

the success of all students by: (1) facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community; (2) advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth; (3) ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment; (4) collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources; (5) acting with integrity, fairness, and in an ethical manner; and (6) understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context (p. 10-21).

Licensing School Leaders

In 1999 the ISLLC contracted Educational Testing Service (ETS) to develop an assessment that states could use to license school superintendents; ETS developed the School Superintendent Assessment and administered the first test in October, 2000 (Hollaway, 2001). By 2002 the ISLLC standards were incorporated into policy by some 35 states, and the ETS developed the complementary School Leaders Licensure Assessment (SLLA) (Hess, 2003).

Not all educators accept these standards as valid norms of practice for educational administrators. The Standards endorse “a philosophy of educational leadership with a dismissive stance toward conventional management theory” (Hess, 2003, p. 13). Anderson (2004) holds that these measures outline “old assumptions of a conservative field that has historically been influenced by business” (p. 2). Riehl (2000) said, “When we turn to schooling as social justice, there are two interconnected strands of ideas. One is directed toward the role of school in creating a just society; the other attends to the just treatment of youngsters and adults inside the school community” (p. 58). Many contend that the work of the ISLLC was most influenced by the *school community* (Beck, 1994; Beck and Murphy, 1994; Riehl, 2000; Shapiro and Stefkovich, 2001; Starratt, 1991).

“Licensure is crude device...especially well suited to professions like medicine or psychology, where practitioners are not subject to public scrutiny. Educational leaders, on the other hand, work in an extremely visible context and can now be monitored on the basis of a wealth of readily available data” (Hess,

2003, p. 7). Hess continues to say that “the sentiments are pleasing to those who embrace the ISLLC notion of ‘diversity,’ and ... believe school leaders ought to wield political and legal levers to advance social justice...they [the Standards] prove highly troubling in practice” (p. 14). In 2003, “forty-three states licensed superintendents before deeming them eligible to apply for a position; these states have mandated costly and onerous preparation regiments...to uncover no evidence documenting their contribution to improved student learning” (Hess, 2003, p. 1). Joseph Murphy (2003) holds that “from the outset the objective of ISLLC has been to yoke the Standards to important leverage points for change...the goal has been to generate a critical mass of energy to move school administration out of its 100-year orbit and to reposition the profession around leadership for learning” (p. 38).

Summary

Based on current curriculum requirements in preparation programs, very little room exists within traditional certification programs for increased legal education. Superintendents must become aware of requirements mandated by the courts and legislatures. Most of the time superintendents may be informed of the myriad of regulations, but fail to realize the obligation of accountability until an infraction occurs.

The continued interaction of law and education arises, as it does in many traditional institutional formats, as to who should control the education of children. The current situation facing superintendents, indeed the educational community, is what are the established duties of educators? Superintendents,

like many organizational leaders, face the burden of compliance without practical knowledge to make informed decisions.

Prospective superintendents without a strong foundational understanding of the law are at the mercy of school solicitors. A general legal course designed to meet credit requirements does not provide the necessary information to understanding the process of handling a problem that is destined to become a court case. It also fails to ensure the superintendent understands the impact it will have on all the district administrators and educators.

Superintendents find themselves in uncharted territory when attempting to understand the facts of a case, specific appeal processes, and specific due process rights. What is known is that educators have little training about what actually happens in legal proceedings, and legal professionals have little understanding of the impact of legal proceedings on the day-to-day task of operating a school district. In this system superintendents are left to attempt to bridge a knowledge gap between both worlds, and at the same time keep the board of school directors apprised of happenings.

A review of the literature supports a need for an understanding of the types of litigation, impact of litigation, and how superintendents in small rural school districts manage legal challenges. There is a positive relationship between superintendents' exposure to school law and their sense of well-being in attempting to confront the myriad of legal issues facing them on a daily basis. The superintendent is the district's everyday legal leader. The board, administrators, and the teachers expect the superintendent to know basic law

and basic legal principals, and to do the right thing. Therefore, the superintendent must be able to understand the law not only as a reference, but as a practical tool to utilize in daily decisions. These unique situations make the superintendent's position, especially in a small rural school district, an interesting case for further study.

CHAPTER 3

RESEARCH DESIGN AND METHODOLOGY

Peter Jarvis (2000), Professor of Continuing Education at the University of Surry, relates the growing interest of the practitioner as researcher. Jarvis' purpose is to highlight and examine the role of the practitioner-researcher and to try to understand more clearly the relationship between practice, practical knowledge, and theory. Jarvis writes convincingly that the way research is produced has changed; knowledge is being viewed as varied, relative, and fluid instead of accepted as definitive truth. He is quick to point out that situations are specific in nature, that circumstances change, and that what was current yesterday is in all probability outdated in today's educational setting. Jarvis says that practitioner research becomes significant and eventually enters into a partnership with formal theory to provide students with a way to apply new knowledge to current and future practice.

Purpose of the Study

The intention of this study is to identify the nature of legal issues in small Western Pennsylvania rural school districts, and to examine the extent to which superintendents currently serving in small rural school districts in the Commonwealth of Pennsylvania are adequately prepared to address the numerous and complex legal issues that frequently arise in rural school districts. Further, this study hopes to identify the practices of these superintendents when they are confronted with legal questions. Since the superintendent's position, especially in small rural school districts with smaller administrative staffs, is

rapidly changing, questions are posed to examine the superintendent's preparedness in addressing the ever-expanding social and economic needs of today's constituency. A diversified knowledge base and a firm grasp of the laws interacting with education are necessary as superintendents prepare to face increased threats of litigation. When superintendents look back at how they spent their time over the school year, many find that legal issues are very time consuming. This study also hopes to supply data for identifying the needs of superintendents in small rural Pennsylvania school districts in addressing the legal issues.

Research Questions

This study is guided by the following research questions:

1. What types of litigation have the superintendents in small rural school districts been involved in during the last five school years?
2. What has been the impact of litigation in small rural school districts?
3. What do superintendents in small rural school districts do when legal problems arise?
4. How do the superintendents in small rural school districts acquire knowledge or find materials that will help them understand the laws applicable to legal problems when they arise?
5. What should be the legal training for superintendents in small rural school districts?

Hypothesis

It is hypothesized that superintendents in Pennsylvania's small rural school districts have a different perception and knowledge base of public school law, and uniquely address the myriad of legal challenges facing public school superintendents in today's litigious society. In order to test this, research questions were specified, then a hypothesis or explanation of what the researcher expects to find was formulated. This information came from the researcher's previous experience and a careful review of the literature covering the perceived problem. Next was the creation of a research design, an overall plan to conduct research to test the hypothesis.

Research Design and Methodology

This study employed a case study approach to explore the perception and knowledge of public school law of at least fourteen superintendents from small rural public school districts. This approach is considered a case study because it is an exploration of a bounded system over time through detailed data collection involving sources of information rich in context (Creswell, 1998). Sources of information include interviews and purposeful sampling of different perspectives of a problem. The investigator narrated the focus group study and reported the lessons learned from the case. This approach to research was chosen for its ability to portray multi-dimensional complexities to a phenomenon within a unique setting. In this case study, the researcher sought to depict and understand the impact of the study populations' perception and knowledge of public school law within a particular institutional setting. According to Stake (1995), "We study a

case when it itself is of very special interest. We look for the detail of interaction with its contexts. Case study is the study of the particularity and complexity of a single case...coming to understand its activity within important circumstances" (p. xi).

This case study examined the perspective of fourteen public school superintendents, their perception and knowledge of public school law, and the ability to confront the myriad of legal issues facing the superintendents. This case study was considered from a specific perspective of special interest. The specific questions answered by the selected superintendents were used to describe and analyze all factors that impinge on the superintendents' procedures in managing legal issues in small rural school districts. This methodology of study is often seen as the best method of attempting to improve practices in education (Merriam, 1991). The case study was used to study the superintendents' management of legal issues in the performance of his or her organizational duties in each school district.

A case study design is chosen to study the complexities of a phenomenon within a unique setting. In this case the researcher attempted to portray and understand the superintendents' leadership perspective and understanding on the particular implications of specific criteria mandated in specific law relating to schools. This case is of interest to the researcher because it has the potential to demonstrate how and why superintendents must have a thorough knowledge and understanding of the legal issues impacting on school operations. The case study was an empirical inquiry that investigated a phenomenon within a real life

context. The case study included qualitative evidence relying on multiple sources of evidence (Yin, 2003). The study emphasized a qualitative approach to research methodology because the researcher wished to obtain an in-depth understanding of “how” and “why” these specific superintendents utilize their leadership skills forged through their preparatory work to meet the demands of school legal challenges.

Merriam (1991) suggests that before one undertakes a study of a particular phenomenon, one must make a case for its importance. How useful will the finding be to others? Who will benefit from them? This study holds significance for the institutions preparing individuals for the position of superintendent in the sense that it may serve as a legitimate model for assessing the effectiveness of preparatory programs for superintendents in small rural school districts. Additionally, this study contributes to the growing body of research-based knowledge that has studied superintendents’ effectiveness in dealing with complex legal implications.

The role of the researcher in case studies has been studied by Stake (1995) as teacher, advocate, evaluator, biographer, and as interviewer. In this study, the researcher played one or more roles throughout the duration of the study. As a former superintendent, the researcher served in the role with respect to dealing with the problems posed in the study. Consequently, the researcher had some personal and professional reasons for conducting the study. The researcher maintained rigorous standards throughout the study to avoid any conflict of interest. With this in mind, in qualitative research it is almost impossible

to separate the researcher from that which is being researched (Merriam, 1991; Stake, 1995; Yin, 1994). Obviously the researcher had some impact on the data being collected by simply interacting with the subjects under study. Yin (1994) describes several attributes desirable for good case study investigations. These include:

(1) asking good questions and interpreting the responses; (2) being a good listener, not limited by personal preconceptions or ideologies; (3) being adaptive and flexible, seeing new situations as opportunities, and not threats; (4) having a firm grasp of the issues being studied, whether the investigation has a theoretical or policy orientation, even if an exploratory mode, this allows the researcher to reduce relevant events and information to manageable portions; and (5) being sensitive and responsive to contradictory evidence, unbiased by preconceived or theoretical notions (p. 56).

Data Collection and Analysis Procedures

This research study was designed to build grounded theory about the challenges faced by superintendents in small rural school districts. Participating superintendents in small rural school districts identified and responded to challenges in school law. Further, these superintendents identified challenges related specifically to the small rural setting and their ability to handle the myriad of legal issues facing school districts today. Utilizing grounded theory and the Interactive Model of Research Design in Figure 1 (p. 47), this research employed key components and the relationships among them to illustrate relationships derived from questions asked in focus groups. The model does not dismiss the importance of design but reinforces it. Yin (1994) states that every type of empirical research has an implicit, if not explicit, research design (p.14). This

proposed research design is intended to be made explicit to expose its strengths, limitations, and implications.

The design in this research represents an interactive process involving moving back and forth between the different components of the design assessing the implications of purposes, theory, research questions, methods, and validity threats of one another (Gertz, 1973, p. 235).

The model utilized has five components and can be characterized by the issues that each is intended to address: (1) Purpose; (2) Conceptual Context; (3) Research Questions; (4) Methods; and (5) Validity.

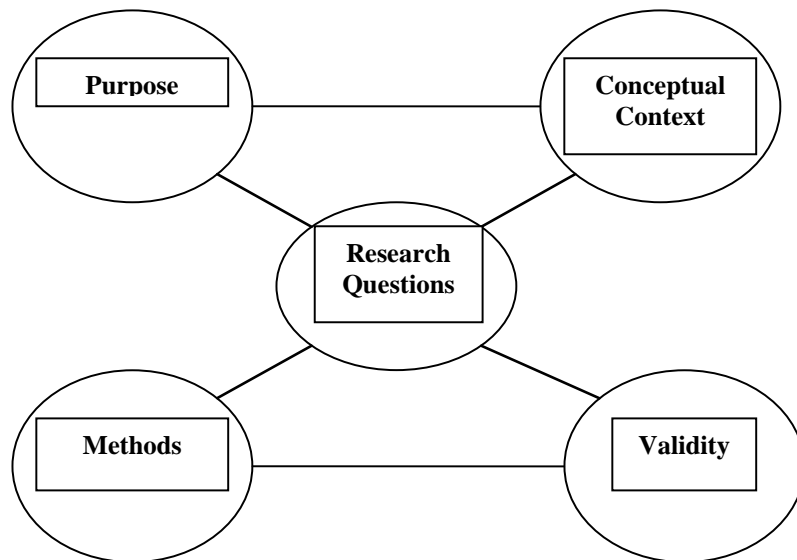


Figure 1: An interactive model of research design (Maxwell, 1996, p. 5).

The conceptual framework explained in narrative form the main things to be studied are key factors, concepts, or variables, and the presumed relationship among them (Miles and Huberman, 1994). It included the literature review and

focus groups to explore organizational effectiveness, and the participant superintendents' involvement and handling of legal issues and application of school law as it related to the dissertation study. Separate focus groups were the main source of data-gathering. By constructing a narrative and including it in the appendix, the methodology verifies a detailed study.

The focus group was conducted with a minimum of fourteen current superintendents from small rural school districts in the Commonwealth of Pennsylvania to explore the types of litigation the superintendents have been involved in, the impact of the litigation on the district, how legal issues are handled, and how superintendents acquire knowledge for understanding complex legal issues to manage sophisticated legal issues in small rural school districts. In the focus groups the interviewer was interested in the interaction within the group to explore the dynamics of answers to questions. The researcher's role was primarily as facilitator, supplying open-ended questions designed to elicit data and insights from group interaction (Malen and Rice, 2004).

Methods and Data

In order to learn more about the way superintendents in small rural school districts experience in their role and to discover the ways in which their issues were similar, rural superintendents in 14 school districts were asked to discuss their management of legal issues in the role of school superintendent.

Focus group interviews were conducted among 14 school superintendents representing Western Pennsylvania school districts identified as small and rural. These superintendents were selected because they meet the criteria as leading a

school district that is small and rural, and its proximity to Butler and Clarion County.

During these three focus group discussions, the researcher concentrated on the legal challenges and dilemmas that occupy the superintendents' time and energy in small rural school districts. The goal for these focus group interviews was to hear from the front-line superintendents about facing the legal challenges of the work.

All the focus group interviews used a standard protocol of questions and were conducted according to Krueger and Casey's (2000) recommended approach. The core questions in the protocol are follow-up questions for specificity:

- What types of litigation have the superintendents in small rural school districts been involved in during the 2005-2008 school years?
- What has been the impact of litigation in small rural school districts?
- What do superintendents in small rural school districts do when legal problems arise?
- How do the superintendents in small, rural school districts acquire knowledge or find materials that will help them understand the laws applicable to legal problems when they arise?
- What should be the legal training for superintendents in small rural school districts?

The researcher conducted each session as facilitator with an administrative assistant recording the interviews. The protocol of the focus group

questions followed the structure of the overall research questions about the challenges of the superintendents' position and the challenges of litigation in small rural school districts. The methodology, interview protocol questions, and data analysis were conducted to maintain validity issues in interview questions and analysis the reliability issues in data collection and analysis. The focus group data was analyzed using Krueger and Casey's recommended methods for focus group data to identify themes and prevalence within and across the groups and to contrast the views of 14 superintendents in small rural school districts.

The audiotapes of the sessions representing raw data were transcribed and combined with affiliated notes for analysis. This step provided a complete record of the discussion and facilitated analysis of the data. The next step was to analyze the content of the data. Here the researcher looked for related themes and patterns that emerged in the course of the interviews. The content analysis began with a comparison of the words used in each answer. The researcher considered the emphasis and intensity of the respondents' comments, consistency of comments, and specificity of responses in follow up probes. The development of grounded theory employs established procedures for analysis. These procedures consist of "developing categories of information (open coding), interconnecting the categories, building a 'story' that connects the categories (selective coding), and ending with a discursive set of theoretical propositions" (Creswell, 1998, p. 150). Results of the data analysis were examined in light of current research and literature about the superintendency and small rural school districts.

Focus Group Recruitment

The focus group was comprised of a homogeneous group of fourteen small rural public school superintendents in Western Pennsylvania. In this case the researcher selected participants because all school districts are located by definition in rural settings, have similar student populations, have similar central administrative staff numbers, and the superintendents have certain experiences and qualities in common. To insure validity the researcher found a pool of applicants, maintained a sound recruiting process, and provided an incentive to increase attendance. Participants were selected from two local area intermediate units within a 100 mile radius of Butler, Pennsylvania. Intermediate Units are regional agencies designed to provide services that individual districts, especially small rural school districts, may not be able to afford on their own, such as special education services, working with student-at-risk populations, psychological services, etc. The 29 Intermediate Units in the Commonwealth of Pennsylvania operate in conjunction with the Pennsylvania Department of Education (PDE) to provide school districts with human and material services and programs. Participants are all members of a select group, i.e. public school superintendents with the same role/job title, but will not necessarily know each other personally. Addressing the homogeneity of the specific populations of fourteen public school superintendents from small rural school districts, the researcher looked to see whether the responses of identifiable populations differ from others.

Contacting Potential Focus Group Members

Potential participants were superintendents volunteering from the Butler County and Clarion County Intermediate Units. These two intermediate units were selected because they offer an opportunity to select a composite sample of chief school administrators in charge of schools comprising small rural school districts. Intermediate Unit 4 and Intermediate Unit 6 were selected specifically among the 29 intermediate units in Pennsylvania because of their contiguous relationship to Butler County. Each is comprised of a significant number of school districts identified as small and rural. Also, the researcher easily contacted, and personally visited the selected school districts when necessary. A letter was sent to each superintendent who volunteered. The sample letter was titled *Pennsylvania Public School Superintendents Needed* (p. 137).

After receiving confirmation of a group of viable recruits, each was personally contacted by a personal telephone call by this researcher to confirm interest and availability. They were notified of the time and location of the focus group, and this researcher secured verbal confirmation of attendance. Each received an e-mail confirmation, and each was personally telephoned two days before the scheduled focus group meeting.

Conducting the Focus Group

The focus group was conducted by a team consisting of the facilitator and an assistant to audiotape the sessions, and one additional assistant. The researcher personally facilitated the discussion; the assistant was responsible for recording the sessions and transcribing audio recordings. The other assistant

was responsible for the seating the arrangement, welcoming participants, distributing writing materials, maintaining a timeline, and general housekeeping duties. The focus group meeting was held at a location convenient to each superintendent and contiguous to a suitable venue.

Each participant was required to complete a consent form. The consent form was in accord with Indiana University of Pennsylvania IRB requirements (p. 139). The focus group was limited to superintendents from small rural school districts in a group small enough to permit genuine discussion among all its members. The researcher facilitated a carefully planned discussion designed to obtain perceptions in a defined area of interest in a permissive, non-threatening environment.

Focus Group Questions

There were five core focus group questions with a set of sub-questions to elicit additional information to clarify answers. Since the participants did not have an opportunity to see the questions they were asked, each question will was:

- Short and to the point
- Focused on one dimension each
- Unambiguously worded
- Open-ended
- Non-threatening or embarrassing

The facilitator used engagement questions, exploration sub-questions, and exit questions to ensure all possible avenues of discussion were covered.

Analyzing the Data

The researcher's interest was to study the statements of at least fourteen practicing superintendents of small rural school districts in Pennsylvania to address these issues. In addressing the research questions, superintendents conveyed answers to specific questions pertaining to the nature of legal issues, and superintendents handling and preparation for litigation in small rural school districts.

Analyzing text and multiple data were represented in narrative form. The researcher prepared a written report based on the complete transcript with the use of field notes. The researcher conducted analysis and represented the data utilizing traditional case study research methodology. Transcripts were analyzed. The information was chunked by questions and sub-questions and broke into sections to be analyzed; therefore the research drove itself.

The research was based on individual responses to questions in numerical position. When all comments were entered, the facilitator looked for common categories or themes across the entries for each question. The data was analyzed and identified by category, sub-category heading titles, and a sub-category paragraph was written summarizing each for possible similarities and differences across groups. Once the findings were organized and analyzed, they were presented in a narrative format including major findings, conclusions, and recommendations.

Because of the extensive data collection in the focus group and follow-up interviews (Asmussen and Chriswell, 1995), the researcher included a

questioning matrix for clarification. The matrix shows how specific focus group questions correspond to the specific research questions that guided the study.

The researcher's intent was to convey through the matrix the depth and multiple forms of data interaction, thus suggesting the complexity of the case. A summary of the major findings of this study can be found in the table below.

Table 1 *Table of the Research Questions and the Major Findings*

Research Questions	Findings
What types of litigation have the superintendents in small, rural school districts been involved in during the 2005-2008 school years?	Impact On: Employees School Governance Students Collective Bargaining Students with Disabilities Torts Sports
What has been the impact of litigation in small, rural school districts?	Impact On: Finances Funding Superintendent Hours Administrative Hours Community
What do superintendents in small rural school districts do when legal problems arise?	Contact Administrative Team Contact School Board President Contact School Board Contact Association President Contact Solicitor Contact News/Electronic Media Contact colleagues in other school districts
How have or do the superintendents in small rural school districts acquire knowledge or find materials that will help them understand the laws applicable to legal problems when they first arise?	Letter of Eligibility Course Work Seminars College/University Course Work Meeting Other Superintendents Solicitor Training Course
What should be the legal training for superintendents in small rural school districts?	College/University Course Work Seminars Solicitor Training Round Table Dialogue Certification Course Work

Summary

This study has the potential to inform, supplement, reinterpret, and validate the perspectives about legal issues pertaining to federal, state, and local legislative decisions concerning law and the superintendent of schools in small Pennsylvania rural school districts. The study collected descriptive data from selected superintendents from small rural school districts in a natural setting for the researcher to present findings from the subject's points of view. Thus, the results of the research were presented in a language and terminology that reflected the words and actions of the people being studied. The concluding data will enlighten our understanding of legal issues in education and the complexities superintendents in small rural districts face each day in attempting to address them (Permuth and Mawdsley, 2006).

CHAPTER 4

FINDINGS

The public school system in the United States is large, diverse and decentralized. Since the United States Constitution never specifically provided that the Federal Government assume responsibility for education, each state has different laws based on their state constitutions, although similar in many aspects, each adds exceptional perspectives to the whole of federal and state law. Because of our educational structure it is often difficult to identify any single rule of law that prevails in exactly the same manner in all states.

Our uniqueness, in many instances fails to identify any foundational precedents that have developed to address individual issues common to specific questions to provide a final word. Consequently we have a large accumulation of law pertaining to contracts, property, torts, and general administrative law impacting all administrative aspects of schools. Also, while considering variations from state to state, schools must consider substantial philosophical perspectives of resident judges in viewing particular school litigation as well as the social contexts of cases that may address the outcome of particular disputes.

The variants in law also present a unique challenge for administrators attempting to address the complex legal and social issues that develop on a day-to-day basis in each individual school district in large urban school districts as well as small rural school districts. Each demographic presents a unique challenge and perspective for school administrators. In the Commonwealth of Pennsylvania the superintendent of schools is the chief school officer and is

entrusted by the Board of School Directors with the overall operation of the school district.

Current issues include a myriad of situations including special education, violence in schools, teacher and student rights and many more. It is in these contexts, when various players believe they are harmed or deprived, that the superintendent of schools must be prepared to address all aspects of school law. *Pennsylvania School Personnel Actions*, Michael Levin, reiterates the statutory duties of the superintendent as, "The highest-ranking employee of any school district is the school district superintendent" (Levin, 1994, p. 19). It is in this context this study focuses the superintendent's preparation and handling of the top legal issues encountered by public school superintendents in small rural school districts.

The purpose of this study was to understand the perceptions of superintendents in small rural school districts as they addressed the top legal issues as noted by Dale Stover and Glenn Cook in the February, 2009 issue of *The American School Board Journal*. The top ten legal issues in K-12 education, in order, are:

1. Employee discrimination/termination
2. Finance adequacy and equity issues
3. Student discipline
4. Collective bargaining
5. Employment issues related to changes in the Americans with Disabilities Act and the Family Medical Leave Act
6. Private placement issues related to special education
7. Disputes regarding attorney fees in special education cases
8. Free speech
9. Educator sexual misconduct
10. No Child Left Behind Act interventions

Topics that received votes but were not in the top ten were: employee and student misuse of the Internet; student searches; civil rights; discrimination; sexual harassment/sex discrimination claims; denial of Free Appropriate Public Education under Section 504 for Students with Disabilities; student and employee privacy; school board member governance; and contract issues such as superintendent procurement (p. 17).

This study considered the following research questions:

1. What types of litigation have superintendents in small rural school districts been involved in during the last five years?
2. What has been the impact of litigation in small rural school districts?
3. What do superintendents in small rural school districts do when legal problems arise?
4. How have or do the superintendents in small rural school districts acquire knowledge or find materials that will help them understand the laws applicable to legal problems when they first arise?
5. What should be the legal training for superintendents in small rural school districts?

The impact of litigation in small rural school districts was explored through the use of focus groups and one interview. The duration of the sessions varied from an hour and forty-five minutes (interview) to approximately two to three hours in length. The same set of focus group questions was posed to all participants.

This chapter presents the analysis of the data drawn from the study. It begins with a section of professional profiles of the superintendents and pending superintendents who agreed to participate in the study. Following the profiles, data are presented by themes related to each research question. The research

questions generated a comprehensive answer for each research question and to generate increased dialogue.

Data Analysis

The researcher conducted an analysis and represented the data in narrative form. The information was chunked by questions and sub-questions and broken into sections to be analyzed, therefore the research drove itself.

The research was based on individual responses to focus group questions in numerical position. All comments were entered, and the researcher recognized common categories and themes across the entries for each question. The data was analyzed and identified by categories and sub-categories. The narrative was written summarizing each for similarities and differences across groups. The findings are organized and presented in a narrative format including major findings. Conclusions and recommendations will be included in Chapter 5.

Findings from Focus Groups

The perceptions of superintendents and pending superintendents regarding the top legal issues public school superintendents are likely to encounter in a small rural school district was explored through the use of focus groups.

The researcher facilitated three separate focus group sessions conducted in various locations in the northern tier of western Pennsylvania in Clarion County and Mercer County. The first focus group was conducted at a hotel in Clarion County, the second focus group was conducted at a hotel in Mercer County and the third focus group was conducted at an educational office site in Clarion

County. The length of the focus groups varied from two to three hours of concentrated dialogue pertaining to the specific questions asked. Throughout the discussion the participants spoke candidly about their opinions and involvement in legal issues in small rural school districts. One superintendent who was unable to attend the third focus group because of other commitments was interviewed separately in an out of school district location in Butler County.

The individual interview for that superintendent lasted approximately one hour and fifty minutes in length and was conducted in an off-site office. All three focus group sessions and interviews were recorded using a digital recorder. Each superintendent was contacted and provided the opportunity to review their participation to ensure accuracy of the collected data. All quotations, dialogue and documentation was recorded verbatim. The researcher did not attempt any specific grammatical corrections within the dialogue when reporting the data.

Superintendent Profile

Privacy and confidentiality was guaranteed to each participant, consequently a corresponding random number was assigned to each superintendent and to their respective school district. Five superintendents participated in the first focus group, representing five school districts in Clarion County, Pennsylvania. Five superintendents participated in the second focus group representing school districts in Mercer County, Pennsylvania and Lawrence County, Pennsylvania and one representing a vocational school. Three superintendents participated in the third focus group representing schools in

Clarion County, Pennsylvania and Mercer County, Pennsylvania. One of the superintendents participated via an individual interview. The individual participant represents a school in Butler County, Pennsylvania.

Profile of Focus Group Number One

Superintendent 1 has been in public education for 37 years and is a superintendent in a small rural school district. This individual has been employed as a superintendent in multiple school districts.

Superintendent 2 has been in public education for 36 years and is a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent.

Superintendent 3 has been in public education for 35 years and is a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent.

Superintendent 4 has been in public education for 35 years and is a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent.

Superintendent 5 has been in public education for 38 years and is a superintendent in a small rural school district. This individual has been employed in multiple school districts as a superintendent.

Profile of Focus Group Number Two

Superintendent 6 has been in public education for 30 years and is a superintendent in a small rural school district. This individual has been employed in multiple school districts as a superintendent.

Superintendent 7 has been in public education for 35 years and is a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent.

Superintendent 8 has been in public education for 32 years and is a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent.

Superintendent 9 has been in public education for 20 years and was recently employed as a superintendent in a small rural school district.

Superintendent 10 has been in public education for 27 years and is currently a superintendent in a small rural school district.

Profile of Focus Group Number Three

Superintendent 11 has been in public education for 30 years and was recently employed as a superintendent in a small rural school district.

Superintendent 12 has been in public education for 40 years. This individual has served as a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent of schools.

Superintendent 13 is a superintendent in a small rural school district. This individual has been employed in only one school district as a superintendent of schools.

Profile of Individual Interviewee

Superintendent 14 was interviewed individually. He has been in public education for 27 years and was a superintendent in a small rural school district and large urban school district. This individual has been employed in multiple school districts as a superintendent of schools.

During the course of the three focus groups and the individual interviews, the superintendents and vocational director superintendent were eager to share their thoughts and perceptions with the researcher. Their animated responses and ability to infuse encouragement and supporting dialogue with their colleagues was evident by the spirited dialogue supporting our discussions. It was apparent as professional educators they are (were) proud of their school district and were happy to share their experiences.

Theme Formulations

While conducting and analyzing the data compiled through the focus groups and the interviews, emerging themes and patterns were revealed as

related to the research questions. Many of the themes to surface are similar to the existing research concerning the superintendent's need to deal with conflict and seek amenable solutions.

Guided by the legal framework for public education, research indicates there is a wide range of legal issues that influence the lives of teachers, students, parents, and administrators that the superintendent must negotiate to ensure districts are proactive in examining, creating, and maintaining district policies and procedures (Fischer et al., 2003).

The data presented in this chapter are presented in sections, each addressing a particular focus question. The sections correspond to particular research questions directed to each superintendent. Each section corresponds to a specific research question and the superintendent's perception of legal issues in small rural school districts. The researcher attempted to make sense by contrasting, comparing, replicating, cataloguing, and classifying answers (Douglas, 1976).

Superintendent Responses

Public school superintendents must avoid potential litigation by responding appropriately to a myriad of legal issues on a day-to-day basis. Though the literature contains references to potential legal issues facing school superintendents and superintendent's knowledge of these issues, no studies to date considered the perception of superintendents to legal issues in small rural school districts. In recent years, public school superintendents have faced increased demands from legal issues confronting public education.

Public schools function in a complex legal environment. They must comply with constitutional, statutory, regulatory, and judicial legal requirements at the federal, state, and local levels. They may encounter claims from any part of the system. This section contains information on 14 superintendents from small rural school districts and their perception on specific legal issues.

This sample of superintendents consisted of 14 superintendents who are or had served in small rural school districts. The study found that superintendents in small rural school districts are not immune to the myriad of legal issues and voiced similar matters as challenges faced on a daily basis. The issues of employee termination, student discipline, collective bargaining, educator sexual misconduct and special education seem to dominate the spectrum.

All of the participants indicated that they had dealt with similar issues. The following categories indicate the types of litigation specifically experienced in the last five years in the 14 small rural school districts involved in the study:

- 6 teacher misconduct cases resulting in litigation termination
- 7 teacher misconduct cases resulting in litigation
- 7 special education cases resulting in litigation
- 4 student misconduct cases resulting in litigation
- 1 case of parent sexual abuse involving their own child resulting in litigation
- 1 case of administrator sexual misconduct against a female subordinate resulting in litigation

Included in the superintendent's comments is information about the major laws affecting schools: Title VII (discrimination and sexual harassment), the American with Disabilities Act (ADA) and the Fair Labor Standards Labor Act (FLSA). Also, there were specific references to other employment topics

including: collective bargaining, discipline and discharge of employees and requirements regarding teacher qualifications.

Types of Litigation during the Last Five Years

Superintendent 1

Since I have been a superintendent for some time, I have been involved in litigation involving teacher discipline/termination. The obvious result is a toll on all the administrators, especially the one that has the teacher in their building. The obvious impact is the tension, and need to be very conscious of the procedure. While I followed the procedures to a 'T', I was also very cognizant of what I said in public. You can't be too careful.

Superintendent 2

My experience is just about the same. Teacher issues and especially termination is very serious, so you have to make sure you follow procedure and attempt to keep other staff members positive along the way. The union will do everything possible to check for procedural errors and any breach of confidentiality. My teacher termination issue dealt with teacher misconduct. Again it resulted in a very negative time for the district. In a small rural school district, it seems everyone knows everyone. A teacher that is dismissed for misconduct reverberates through a small community. It's disastrous, not good.

Superintendent 3

I faced a very sensitive teacher dismissal issue for misconduct and realized that our small rural school district was consumed with the thing. Community members kept their ear to the ground for any new salacious comments that could be spread around town. Keep in mind, small rural school districts, have limited budgets so this type of thing consumes time and money. I think we all will agree that the procedure is very important. The School Code, Collective Bargaining Agreement and District Policy Manual have some very comprehensive steps to follow. We all understand the need to follow them, but also, it is very important to maintain positive public perception. You also have to keep things confidential.

Superintendent 4

The first thing that I encountered being on the job two months was a principal that had criminal charges filed against him. Just coming into the community, a small rural community, I had to quickly get up to speed. As we mentioned, in a small rural school district, there is no big administrative team to handle everything. The superintendent is usually involved in every item from start to finish. Remember we are focusing on small rural school districts. The school and the things that occur are fodder for community conversations. The teacher or teachers involved in discipline may be

neighbors, friends and co-workers of neighbors. What is made public or discussed because of perception can be very dangerous community gossip.

Superintendent 5

My experience was rather unique. I inherited a situation when I arrived, consequently I had to be brought up to date to make sure everything going forward was done correctly. A part of the problem was that my predecessor had, obviously, made some procedural as well as public relation errors. My teacher misconduct cases, I say cases because there were numerous ones during my time, were always negative experiences. They took time, effort and constant patience to deal with the participants, board and community. Small rural districts, along with financial restrictions also face small district staffs to deal with these things. Unlike big bureaucratic administrative district offices, we can't push it off to an assistant somewhere; it's always at the superintendent's door. Disastrous is a good description.

Superintendent 6

The litigation I was involved in was a teacher discipline situation and was very time consuming due to the fact that you are dealing with a collective bargaining agreement, board policy, Department of Education regulations and a human being. As we know, in small districts you're close to the people and community, thus its very strenuous and time consuming.

Superintendent 7

My teacher termination case was very specific and involved a statute of limitation issue. After six years as a teacher she did not get instructional certification, consequently she is being terminated. Believe it or not we will hear the grievance on Monday. It's not a real emotional issue for the district, but it takes hours of work and meetings to make sure we are following procedure and policy. It's time consuming. Teacher misconduct is a very sensitive issue and was made worse by the connection of a board member to the teacher. It was not a great time for the district. The whole thing divided the staff in that particular building and also against the district because they look at the administrators as the enemy. Small rural districts are very close and have definite feelings about things. What may be legally wrong may not come across as ethically wrong in an area - you know what I mean?

Superintendent 10

I have been involved in numerous litigations concerning teacher discipline/termination and I can tell you, they're emotional and time consuming. In a small district you know everyone and everyone knows what's going on, or at least they think they do. You (superintendent) must maintain confidentiality, so at times people make up things and use

perception for their reality. I was involved in one case where we actually looked at the cost. This didn't involve sexual harassment. We were trying to terminate a teacher because of other issues. We got to the point where we knew that the person (teacher) did not want to be there (in school) and we knew the actual cost of the litigation, paying attorney's fees and so forth and so we looked at a buyout. What would it cost? As you know in a smaller district, that is a factor, perhaps in any district it may be. You hate to do this because you get criticism. People say well, that person (teacher) actually won because they got money, but they really didn't because in the long-run they are terminated. They are not going to be hired. It was more beneficial. It cost us less to do a little buy out than what it would have actually cost for the attorney and the solicitor for all of those things associated. This was the only time I actually put a dollars and cents comparison and it made sense to pay this so we didn't have to pay more.

Superintendent 11

While I have participated in situations as a principal, I have not been involved as a superintendent in litigation involving discipline/termination involving a teacher.

Superintendent 12

I have been fortunate that the teachers' association has been very cooperative. We have had numerous problems but fortunately none of them have led to litigation. We have always managed to either work them out, people leave voluntarily or the issue is resolved. No litigation, but even with working them out, it takes a toll on the faculty and community. You know, as we mentioned, in small communities everyone knows the school's business.

Superintendent 13

Yes, I have been involved in litigation dealing with teacher discipline, leading to termination. The impact on the school district was significant. The impact was very stressful on the administration and teachers waiting for the case to go to trial. There were a lot of issues waiting for the thing to go to trial. We had a lot of hard feelings between many sides in the situation but once it was finally resolved it calmed down. It's hard because everyone has opinions and in our community everyone thinks the schools are everyone's business. The teacher was found guilty and things returned to normal. It took a while to get back to normalcy.

Superintendent 14

The litigation in regard to teacher discipline was very difficult on the district because there was a strong union and the situation really impacted the morale of the district. It seemed that the situation was fairly simple. The teacher was regarded as a poor teacher by everyone, but once we had evidence of the situation, every other teacher seemed to forget the

performance and protect the person. It really was a bad situation. The students, community didn't want this teacher to remain but the union really fought. In the end we did manage to get the teacher out but it took months of aggravation, money and energy to do so.

There was one interesting case of misconduct when a teacher reported directly to a board member that another teacher had exposed himself to her in school. The board member was so upset about the situation he called me at home at 11:30 p.m. and said he had to meet with me immediately. We met that night at midnight at an all night coffee shop. Again, in a small town you have instant access to the superintendent, so this was something he thought was the best course of action in this situation. Of course, it was a male who exposed himself to the female teacher but it was really a thing of "she said and he said." He vehemently denied doing it. She would not budge in her allegation. Again, we are in a small district, so we can't transfer anyone; we only have one secondary building. How can you keep them apart, even during the investigation? Also, each had their defenders. Some people said the female was hanging around, chasing him, others said he was like a *dog in heat* around her. One funny thing is that the union was in the middle. It took time but the *dumbo* did something sexual in nature to another female teacher and hung himself. The district again had to go through the whole thing. It upset morale. The administration had to play detective and again the business of education suffers. In a small district with a small administrative staff, if litigation and misconduct take up your time something suffers, usually it's the students.

The superintendent's comments identified teacher misconduct resulting in discipline and termination as having a serious effect on school moral and the considerable amount of time and staff resources consumed by litigation. While briefly mentioned in this initial analysis, the theme of community involvement and interaction became evident because of the relative closeness of participants in small rural school districts. Consequently, the need for administrative communication management and oversight was seen as important to control public perception in regard to litigation.

Significant issues from a sample of the 14 superintendents involved special education and disabilities. Serving students with disabilities raises many complex

and legal issues for schools. The superintendent's perception of dealing with special education involve understanding and complying with federal laws such as the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the American with Disabilities Act.

Superintendent 1

Superintendents also must keep in mind that you are dealing with a student, a child, do what is right for the child and it usually turns out fine. It's not a win if the child is not served. My experience with these issues is that they are very impactful on districts. A small rural school district is impacted by outside agencies, counselors, advocates and, lawyers. If it is perceived that a superintendent, and I never tried to put this out, is only interested in winning, it's a more bitter fight. The laws are written against the districts to protect those (special education) students...so that may be more of a minefield, but the same rules apply. If you've done everything right or you are examining this situation and you know it is a loser, then change course. You only go forward in any litigation if you think you have a chance of winning; otherwise *pay-up* and go on.

Superintendent 3

I was shackled for almost four months with a difficult special education litigation issue. I believe that superintendents must be very good communicators and, if you believe it, 'tightrope' walkers. Special education is a very dangerous issue. My district suffered immensely while this issue was alive. It frustrates your current special education teachers, administrators and students. Just like superintendent 5 stated, anybody can sue you for every issue. Special education can be a piece of cake but it can be a disaster. Follow the law...always.

Superintendent 4

Special education is the tail that wags the district. It was very difficult for me to get board members in mind to follow all laws because they thought it was showing preference to certain students and they thought favoritism. It's true, there is a dual system of discipline and in my particular case I had to make sure everyone understood that.

Superintendent 5

In special education the probability of making an error is very high because the law is complex and ambiguous and probably everyday every district in this region makes a special education decision that could be litigated. Not that many are in this area anymore because there do not seem to be many attorneys chasing after it, but in some areas of the state there are a lot of cases litigated. Small rural school districts may be more

connected to the community and parents, thus avoid some errors before they become cases.

Superintendent 7

It is not easy to negotiate the Department of Education, special education advocate, policy and procedure and still save the district any money. It is best, especially in a small rural school district to be very pro-active and follow the rules without fail.

Superintendent 8

I had a huge case with special education – a truancy case. The district's attorney was not allowed to speak because he had not filed a certain paper. So we're on the stand and going through everything. All in all it came out with a huge amount of documentation. Because we didn't offer a 504, we were to try to settle this outside of court. Well, we decided to appeal it and we decided to 'take it on' because we had so much documentation. They ended up dropping the case. The district still had to pay court costs, even if they dropped the case. It reminded me that no matter how much documentation you have, if you miss one piece of paperwork, you can be in trouble. You must know your Procedural Safeguards and 504 regulations.

Superintendent 10

I have been involved in a few special education cases. Best advice, follows the rules or settle fast. Know the rules and follow them. In small rural districts, you have to really do a lot of the work personally and depend on a good solicitor. The case was very impactful on our district. From that I also learned that you can never stress the need to document, enough. Win or lose at least you're prepared.

Superintendent 12

Again, we have been very fortunate. I have not been involved in any litigation involving special education. We have a very good special education director who has been able to work through problems before they reach the litigation stage.

Superintendent 13

There was a large scare through the entire northern tier of school districts from a lawyer that was attempting to target school districts and then force issues into Federal Court. All of us from small rural school districts were very concerned because the loophole this guy was pushing seemed to really put everyone on notice and cost a lot of money to defend. We, like others, probably overreacted, then calmed down and remembered we are following the rules and doing what's best for the student.

Superintendent 14

Interesting case that was really the board's fault - We had a special education student that had a specific item the parents wanted included in the Individual Education Plan (IEP). I recommended the district go along with the parent's request. Since it was a small district, many of the board members had spouses or relatives working in the district and got wind of the request. Before I knew it, they (board) was meddling in the situation. They specifically told me to deny the request. The parents took it to due process and we lost. There I was with the proverbial 'egg on my face.' I followed their edict, and it cost the district time and a considerable amount of money just to do what we should have done from the beginning.

It was evident that small rural school districts are impacted by the involvement of outside agencies, i.e., special education advocates, PDE, parent attorneys, etc., and this requires superintendents to be aware of managing and controlling the flow of communications. The communication process, while important for community awareness, also demonstrates a need to ensure timely and honest internal communication with the board, faculty and the administrative team.

Comments involving litigation, particularly those in special education, fostered a need for small rural school districts to be continually aware of following policy and procedure and keeping a close watch on the budgetary implications, especially in small rural school districts because of the limited budgetary funding.

Student rights and discipline also involves significant issues for superintendents in small rural school districts. Cases involving challenging students' First, Fourth, and Fifth Amendment rights with their educational mission to maintain a safe non-disruptive learning environment were prevalent in the small rural school districts sampled.

Superintendent 2

As a superintendent, especially with some time in the business, we all have faced student discipline issues. There are just too many minefields out there to avoid every issue. The issues or litigation, share the same things we talked about with teachers. Follow procedure, keep confidentiality and make sure if it is a new issue, like cell phones, you modify the Board Policy manual to address the issue.

Superintendent 3

In dealing with student discipline, I'd say nothing less than 10 hours of preparation (interviews, solicitor involvement and board meetings). While I say 10 hours, I don't think you can put a time span on it. Its open ended (legal issues) – In an unfair labor practice we (administration and solicitor) went to the arbitrator's office, met with the PSEA representative and an hour and a half later after we were dismissed, the arbitrator came out with a decision, asked if we agreed, we said yes, and the game was over. We expected this one to last for months but it was a done deal quickly. I think the fact that we were small helped because we did have fairly good communications with the bargaining unit because we all lived so close.

Superintendent 6

It was very time consuming and because of the student's athletic ability it caused a lot of disruption in the district. Even the board members were involved, even though I tried to keep them away from the situation. It was a mess.

Superintendent 7

Of course, you can't be around long without having some student challenge the system and take it as far as possible. It's not a good experience, but it is necessary. And like we talked about, in a small rural community you're the focus of entertainment and gossip. Yes, time consuming, lot's of work and a no win situation most times.

Superintendent 10

I have had these issues and student issues are very emotional and also time consuming.

Superintendent 11

Not as a superintendent, but tons as a principal.

Superintendent 12

Yes – It causes strife in the district. As you know there are close relationships in small school districts. Opinions are formed, many times based on perception. The cases we have been involved in have not always found the courts supportive. It seems they (courts) take a much more liberal approach.

Superintendent 13

Yes – not good.

Superintendent 14

As you know I served in both a large urban school district and a small rural school district but the litigation, in my opinion, takes a larger toll on small districts, just because of the close familiarity of faculty and community members.

One particular case stands out. It involved a young girl and her father. He sexually abused this girl for many years while she was in school and we didn't suspect anything. The report came when she was in about eleventh grade and the father turned his attention to the younger sister. The older girl was so fearful that her sister would go through the same thing that she reported the abuse to the counselor. Obviously the father was arrested, the girl was taken out of the house, and in fact both girls were taken out. Unfortunately after about 18 months and an investigation, the father was put in jail. You know what happened, about two years later, the girls were forced back into the home, the father paroled, guess what? He probably was back at it. As for the district, we were all sick about the situation. The administration wanted to hang the guy, but as usual, we followed the policy and law. It's was rough on all of us. The teachers were sick; it upset the community because some of the members knew this guy. Although he was not a rich guy, he was a community member, related to people and others just could not believe it. Tough on the district...!

While continually aware of the budgetary implications of litigation, the superintendents began to mention the extreme time involved in handling litigation. This also emphasized the dilemma of the difficulty of carefully dealing with community involvement. Since the community is so interconnected to issues involving the district, community members perceive issues requiring great amounts of time as important and become strategically aware of all conversations and interactions between litigants and the district. Small rural school districts usually have smaller administrative teams; litigation requires administrators to spend an inordinate amount of time on single issue items. Again, the need to concentrate on a single litigation issue, because of the

closeness of the community and board, leaves little time to concentrate on any other issue directed to curriculum and instruction. Community members focus on issues in the district the more time spent on litigation and the more salacious the story, the more it generates community interest and local communication.

While technology was not specifically mentioned, the superintendents did, in their opinion, foresee numerous challenges dealing with issues related to Internet, e-mail, video, and other emerging technology. The fast pace of emerging technology seemed to concern the superintendents in relation to e-rates, software filters, social networking, and other off-campus student websites and free speech, Internet acceptable use policies and privacy.

All of the superintendents spoke of the numerous cases impacting their school districts they were also candid about the need to follow procedure and policy. The need for adherence to policy is obvious due to the nature of litigation but made even more important coupled with the fact that in small rural school districts the community plays a major factor due to the closeness of the community. The superintendents reiterated, in many instances the school district may be the largest employer in the area, and community members may be directly involved in the process.

Impact of Litigation

School districts face an increasingly complex legal environment. Each day, districts are beholden to a staggering list of laws, regulations, rules, and policies that motivate and control behavior. Federal, state, and local governments generate reams of expectations. Court decisions are unending (Darden, 2008).

Along with highly complicated requirements, superintendents must consider the impact on school districts as to what they must do or are forbidden to do.

In considering each circumstance common threads emerge to indicate similarities due to the impact litigation have on a small rural school district. One specific issue involves the amount of time consumed by litigation.

Superintendents, even if specific cases were long concluded, remembered the large amount of time required for pre-work and actual time in litigation. While many estimated the specific amount of time, it was remembered as considerable days, months and, in some rare cases years.

Small rural school superintendents expressed the concern of overworking a small administrative staff and the need for significant preparation and actual time sitting in court. Each instance where a case is in litigation keeps the superintendent and administrative team from performing their actual job function.

Along with consuming great amounts of time, litigation causes disruption in the district and a disruption due to the fact that small rural districts and communities are in relatively close proximity. The fact that there is strict adherence to policy is coupled with the fact that in small rural school districts the community is a larger factor because of the closeness of community members involved in the school district. In many instances, the school district may be the largest employer in the district, thus community members may be employed by the district.

Superintendent 1

There are not enough attorneys available that really know school law. In small rural school districts this presents a real problem.

In my small rural school district, the impact of a difficult case cost hours, money and ended with poor public relations. We didn't have the money to fight, knew we were doing what was best for the child, and still lost. I was frustrated. It is difficult to estimate the specific amount of time I spent on each particular issue; I do remember one specific issue that lasted for three years. I don't know how to begin to estimate the specific number of hours but it consumed almost all of our day for many, many months. As mentioned, we didn't have a large administrative staff in this small rural school district, so it was a constant daily chore to commit time and energy to this one particular issue.

Superintendent 2

It's not hours. It works out to be days. In a labor issue that was litigated, we had a sidebar and agreement, but that only solved part of the problem. Then we were at it again. So just when you spend days on a problem, it opens up again. There you are, problem still not solved and involved in an ongoing thing. Really can't put a time limit in general terms because each issue is fact specific. Of course, in a small rural district, it again lands on your (superintendent) desk.

Superintendent 3

I think we all have had discipline issues reach our office. It is also very important to understand the board's involvement. They (the board), if it reaches the board level, must act as the judge & jury. Attempting to keep them informed but separated from the process is a very difficult thing. They want to know everything, and in some instances want to make it better. The student and parents, especially in small rural districts are very close to the board. You may be dealing with relatives, co-workers, so the impact on the district is very impactful.

Superintendent 4

There are many empty hours sitting in attorney, PSEA and arbitrator's offices waiting. I (we) sat in a courthouse for hours and the issue was never called during the day, but we still were required to sit and wait. Small rural school districts are at a disadvantage because of limited administrative staff. In a small rural district, again the closeness of the problem and the people is very noticeable. You might be talking about a super athlete that the whole community looks to win them a championship, so you have to be careful. Sink the champion, sink the championship; you might sink your career.

Superintendent 5

Superintendents would be well advised to work with their boards. My issue involved a board member that was out of line with his fellow board members, consequently they were the prime movers to get him in check. It does disrupt the normal flow of board business and district business

because of in-fighting and egos. I think a point worth making in your dissertation is what happens in a rural district is somewhat a function of how litigious the area is. Honestly, in our IU there are fewer due processes hearings and fewer hassles with special education than any place in the state. I'm not sure if that's because we do a better job. It may be because the parents are closer to their small rural school and are less combative and that's what saves us. That may be the issue that keeps us out of trouble. Also, your theoretical structure in a small rural school district has to do with formal versus informal structures. In a small rural district the premise may be, we're going to resolve problems without fighting, thus have less litigation. Large districts, where their culture is based on formal structures, where there is an adversarial relationship, you're going to have more litigation. Superintendents in small rural areas are usually from the area and even know the area.

Superintendent 6

It (litigation) takes a lot of time. It takes you away from the things that you love doing, but it's something that is so important that you have to do it.

Superintendent 8

The documentation, in one case, included all the things we had done thus far over a two year period - working with counsel, action plans, contracts, etc. All of the law that went into that as far as how law enforcement was directly involved, task force involvement was endless. Just pulling together that much documentation took over three weeks for one case. At another time we had one case concerning an alleged violation of the teacher's contract that took 3 ½ years before it was resolved. As you can see in a small school district, with minimal administrative staff it takes a lot of the superintendent's time.

Superintendent 9

Communication is very important. You're not expected to know everything, but what you do know, share with your middle level and lower level administrators. Two heads are better than one.

Superintendent 11

As mentioned, not being involved as a superintendent, I can relate to the endless hours spent on issues when I served in any administrative capacity. It seems as if it takes up all your time and you never can get it off your mind.

Superintendent 12

It's hard to put a definite time on preparation and research but if I had to have a range, I would say between 5 to 100 hours. It's also constitutes a specific amount of time because you can't do anything else when you are

concentrating on that type of thing. You have to stay focused and make sure you *cross the T's and dot the I's*.

Superintendent 13

Extensive clock hours are spent on any litigation; about 3/4 of the time (is spent) with staff and attorneys. There are several days of preparation and like the others say, you can't really focus on other things. It (litigation) is very time consuming. Litigation is a serious drain on school districts, especially small districts. The emotions are high because the communities, teachers (PSEA), students all take sides and that creates a state of unrest. In small schools you are the focal point.

Superintendent 14

Disagreements, but no litigation – I will tell you, in a small district most everyone knows or is related to everyone else. So if you're going to battle your board, you end up with problems. If the news gets around that you want to challenge them, it usually costs you in the end. You got to learn to pick your battles, so you don't lose the war. Even disagreements can be time consuming and waste your energy so you don't have time to focus on the education program.

After working with school boards and attempting to understand each perception to a problem, I would have to say that a course, a mandated course, for school board members in governance and school law would be very beneficial. In cases before us if the board and I spoke or at least understood the same language and rules covering confidentiality, it would be helpful. Unfortunately it's dangerous when *you don't know what you don't know*.

The superintendent's perception of the impact of litigation again emphasized the closeness of the community to school issues, the hours consumed by a relatively small administrative team and the importance of maintaining an excellent communication flow. While reviewing the obvious remarks, another theme began to emerge, revealing a specific cultural disposition in small rural districts. Specifically, the perception seems to indicate a more personal involvement in all school related issues, especially litigation, due to the fact of all the interrelatedness of issues, personnel, and history. In most instances the superintendents stressed the cultural identity of community

members, board members and employees and the familiarity of each, being personally vested in issues, especially litigation when an 'employee' or 'student' from the community is involved.

What do Superintendents do When Legal Problems Arise?

The superintendents' highest level of concern centered on immediate reaction when first notified of a legal problem. The participants' responses to the question indicated a very similar pattern of reaction when notified. A majority of superintendents stated they first notified the school solicitor as a precautionary move to assess the severity of the situation.

Superintendent 1

I think they all are serious. It is an evaluative process. You must be aware that almost anything is a possible avenue for litigation.

Superintendent 3

I review the allegation, collect data, and do interviews. Once we do all of that, I feel comfortable either we are going to resolve it, or go some other way. That's when I call my solicitor and tell him what we have. After that I turn it over to him for his legal counsel. Also, checking in with your team (administrators) on a daily basis is always a good thing. Those guys know what's going on in their building, so you got to rely on their judgment to bring issues to you early to give you a warning of potential problems.

Superintendent 4

Once we are notified of any threat of litigation, our administrative staff is alerted not to send any more e-mail or any additional communication that may be a potential problem. Our solicitor is notified immediately.

Superintendent 5

Experience is probably the best thing that gives you a sense of reviewing day-to-day. The longer you serve in a particular district can give you a sense of where most of your problems are going to happen. But I agree with (superintendent 1); almost everything can escalate into a major problem so be careful with everything. I don't take any for granted. As with anything, you have to find the right attorney with the right expertise that is matched with the issue that you have. I never put anything in writing

whether it was a formal memo or whatever that I didn't think would be fine in a court of law or in the public realm. Then turn everything over to your solicitor.

Superintendent 8

Notifying the solicitor, you must also pull all of the pertinent policies, procedures and past practices. As superintendent you must have everything together in files prior to notifying anyone or meeting with the administrative team. We monitor a whole list of procedures depending on what the situation is. There needs to be a consistent procedure in place to make sure everything is covered. With experience you tend to take everything as a possible law suit and follow a set procedure.

Superintendent 9

Review the situation, notify the solicitor and minimize interruptions and disruptions.

Superintendent 11

The school solicitor is called first and foremost. In my limited experience, this is the first thing done and it is usually first on my list. I then have a discussion with the staff and any administration who may be involved. Ultimately the discussion moves to the solicitor and also any documentation is reviewed. Also from experience you can tell if it's occurred before, the seriousness of the thing. In this day and age, everything is serious.

Superintendent 12

Contact the solicitor. That's his job.

Superintendent 13

Once litigation starts all discussion issues take on a life of its own. First, I secure all records. Second, I meet with all the staff involved and document all the information. We are trying to assess the situation immediately to know just who to contact. You never know, perhaps the police need to be involved right away. We check everything out. Usually then we contact the attorney and the insurance company.

Superintendent 14

I had a very good law teacher at Pitt. Sam Francis was not an attorney but he knew school law because he had a great mind at breaking things down into simple steps. He also was a superintendent, so his knowledge was pertinent to what superintendents needed to know. Well, when I first got wind of something or was notified, I broke things down in writing. I stated the compliant, individuals' involved, pertinent area of law and things like that. Also, I never hesitated to begin an immediate investigation, talk to any witnesses, because as you know minds tend to forget things and also,

in a small district the gossip starts immediately so you want to be on top of things right off. Then once I knew as many details as possible, spoke with the solicitor and the insurance company.

Also, as they say, document, document, document. You know, CYA...I took everything as very serious from the start. It's easy to back off but if you don't take everything serious, that's the one (case) that will end up costing you tons of money, and in some instances a superintendent his job. You make a big mistake if you don't believe everything at the beginning. If you attempt to avoid any issue or make light of it you are making a big mistake. Once I was informed everything was serious and I began my investigation - attempted to do an intelligent analysis to get to all the facts. Of course, you're always piecing together the facts as they come in during your investigation, so you get some sense of where the thing (incident) is going. So, you want to be in contact with the solicitor as much as possible to evaluate the day-to-day picture and also check if there are any noticeable changes in the legal landscape that may influence it (current case) to make sure you are proceeding.

The superintendents stressed the need to first locate the most knowledgeable school law solicitor available. Then in cases of potential litigation, contact the solicitor as soon as possible for counsel. Along with immediate notification of the school solicitor, the insurance carrier should be notified. Maintaining excellent documentation of any incident reports or investigatory information is a must. Again, while examining the comments of the superintendents it became evident because of the nature of small rural school districts where many solicitors are attorneys from the area, there is a need for careful communication because of community awareness. Community, culture and communication again emerged as thematic foundational premises in identifying a first contact when litigation became evident in a small rural school district.

When asked for their next action, many stated they alerted their administrative team to review the allegations and strategize a district response.

When asked how this procedure operated in their districts, they responded:

Superintendent 3

The one you think is not serious will end up being disaster. Everything is serious, because you don't know where it is going to end up. So when things happen that's why I get the administration together and say what's going on here? With that said, I even attempt to understand the tone of what was said, the atmosphere, and then start making a plan. One thing I stress with my administration is that we review the allegations and attempt to find out what it really is. I tell them point blank that if this is something that will end up in a court of law, can I (we) win. If I don't think we can, even at the beginning, I need to come up with an alternative solution.

Superintendent 6

What I do first is read what the litigation is about and I highlight it. Then I get my administrators together, then I say *o.k.*, now this is what's going to happen and we get into a 'think tank' mode and discuss it. Then we do a plan an action plan of who has to do what and when and when it must be done. That's what we do in our district. Because we do not have a large team we divide and conquer the details, than move into action. We have developed a set of procedures that we use to investigate several types of issues. We have a procedure in place on how we go about evaluating any kind of incidences that we think are of a serious nature.

Superintendent 7

I always prepare a packet with everything in it because if the solicitor doesn't show up, I (superintendent) must be prepared to answer questions and interact with the parties involved. You have to have all your documents and everything in order. With any litigation you have to make sure you cover the district and yourself. Good communication, especially in a small district is very important with your administrative team. Monitor the daily events and look for possible situations that may be a red flag.

Superintendent 11

Administrative meetings and talking among administrators to keep communication lines open usually helps with day-to-day monitoring.

Superintendent 14

Your administrative team, and in a small district it usually is comprised of the principals and business manager, perhaps some others but not large, need to be up to date. It really depends on the case but there are some standard things I always did when first beginning. School law is a

compilation of all types of law. It has always interested me, in fact, my dissertation involves school law. But since it (school law) involves many things, contract law, tort law, civil and at times criminal situations, you have to attempt, even before you begin, how you're going to frame the situation. Find out where you are, before moving forward. In looking back, I would not hesitate to say, easily 100 hours of difficult situations, less on things that just may need a look. Regardless, with a small central office staff in a small district, the superintendent does most of the leg work.

When asked about other procedures that were utilized as a first response when legal problems arise, they responded with the following comments.

Superintendent 2

After a while you get a sense of what may be going further. If you treat everything as serious then you aren't caught off guard when it gets nasty. Lots of things come your way, quickly I might add, so you got to be prepared for anything. Also there are some areas of the business that are really minefields, special education, contract negotiations, discipline that you have to monitor and evaluate on a daily basis. They are all serious; I would never sort any out. Always look at the end, don't look at the beginning, because every issue has the potential to explode. I immediately call my Errors and Omissions insurance carrier and they telephone my solicitor. If there is litigation and it goes over \$5,000, they are going to pick up the tab and they may assign you a special solicitor. If you have already started with another one that may not be the best one for the particular situation – I want one (solicitor) that is an expert in the area we are litigating. If someone comes in and says, "I'm going to my attorney or I'm suing you", my automatic response is, "Then this meeting is over." Anything from there out, "if you're going to do that (sue) you can contact our solicitor. Now if you want to sit and talk about it, that's fine, but if you're suing, the meeting is over."

Superintendent 8

You can't put all of your faith in your solicitor. They don't always know education law and especially not special education law. You have to find someone that knows the area which is in question. You have to be able to protect yourself, protect your district and protect your people. You have to stay current on things. The solicitor who starts out wanting to handle this, they turn it over to the insurance folks because now they are talking about compensation and that person doesn't know special education law as well, so they bring another special education person in. So one is removed, another one is in, and now they are involved in proceedings, depositions, etc. At times, you never know who you're going to get that is going to be defending the school district or who is going to defend you. You have to

know what it is that you're doing, you have to do your homework, you have to have it succinct, and you have to have it in chronological order and committed to timelines.

The superintendents again emphasized the need for open, honest and relevant communication to enhance administrative awareness and to outline and present a team effort when keeping the community informed. Since small rural school districts usually have small administrative teams, meeting and delineating specific tasks involving litigation is vital to ensure all areas are covered. Also, if for example, litigation involves a specific area of school law, i.e., it becomes important for superintendents in small rural school districts to seek specialists in specific areas to address a particular litigation. Again, this fosters a reliance on the local school solicitor to advise superintendents on legal specialists to ensure the most competent representation in specific areas.

Finally, the superintendents had a high level of concern in controlling communication when legal problems arise. Their responses to questions pertaining to communication control indicated that a high degree of public relations work is needed to ensure perception does not over take the facts of the situation.

Superintendent 5

As a superintendent anything you say could be in the newspaper, so anything that you say has to be appropriate for that. The same thing with anything you send out. The first threat of litigation alerts you that absolutely everything you say must be very guarded...in what you say.

Superintendent 6

When you're in a small district like we are, you really become the paralegal for the attorney and the advisor to the board. You have to be careful what you tell the board. Something else that I think is critical as a superintendent – whenever you make a decision, you have to stay focused on the decision. You can't focus on whether you don't like

someone involved in the case so you're not going to listen to them. You always keep your focus on the child and you focus on what your expectations are where that child is falling within those expectations, or whatever the legal situation is. Communicate first; sometimes this prevents a law suit. I believe in preventive measures in everything. And it is critical when working with staff to model good behavior. We have to model what's right and professionalism at all times. You need to model being true to people.

Superintendent 7

You also have to know what you can tell your board and what you can't. You have to find out very quickly who your enemies are. In small rural school districts there is a lot of gossip. I think when you get into litigation, I think the administrators know what's going on and I think the attorneys know what is going on, but I think sometimes that boards fail to see the overall facts of what I call abhorrent behavior in a school system.

Superintendent 8

I also agree with modeling good behavior at all times. Don't forget, bedroom communities, like small rural school districts are very interrelated. You don't know who is related to whom. Many times in small rural school districts the community looks to the school district for leadership in all areas.

Superintendent 13

In small rural communities, especially with our local newspapers, all litigation is serious to the community. It's also usually front page news. Usually the school attorney would take the lead in determining the legal side of importance.

Superintendent 14

Again, in a small rural district you have to move fast because the informal communication channels are at work immediately. Believe it or not at times the community and faculty were ahead in the communication than I was. So I always considered everything serious, until I personally knew all the facts.

In understanding the nature of the closeness of the community to small rural school districts, the superintendents again emphasized the need for careful communicating to control gossip and eliminate negative rumors from influencing public perception. Small rural school districts have an interrelated network of family, employees and history involved in the school district, thus they are close

to the board members and administrators and will spread information quickly. Thus, superintendents stress the need to model good behavior, and communicate honestly and frequently in matters involving litigation.

How Superintendents Acquire Legal Knowledge

When asked how they acquired current knowledge or find relevant materials to help them understand the laws applicable to legal problems when they first arise many of the superintendents seemed to rely on the traditional methods of gaining information. First and foremost the superintendents relied on the Pennsylvania School Boards Association (PSBA) legal seminars. PSBA offers a Fall and a Spring Legal Roundup utilizing in-house attorneys and inviting attorneys from across the Commonwealth to present issues and research on various topics including legislative concerns, recent case law, and a policy development service. In addition to fall and spring legal roundups, PSBA staff attorneys may be retained as special counsel, on an hourly fee basis, to assist superintendents and districts. School districts, usually on the advice of their solicitors, retain PSBA staff attorneys in current cases and issues. The Pennsylvania Department of Education (PDE) also offers publications, seminars, and printed materials to assist school administrators.

Superintendent 2

PSBA seminars – Every spring they have a legal round-up in April. Solicitor's newsletters or the meetings our solicitor holds are helpful. Yes, PSBA is probably one of the best resources – I at least read the coversheet on every PSBA pamphlet. If it's a specific one, (pertinent to a department in the district) I will send it to the business manager, or the principles, or whoever it pertains to. I usually keep them for up to two years and then they go. Their (PSBA) spring legal update and having the

printed resources on hand along with the other publications that you get from them are very important, especially to superintendents in small rural school districts. The more you can be involved in the district, know the students, employees and community the more you can get a sense of what is going on. Small rural school districts have the same problems as large districts; it's just that you are closer to the people and the problems. You don't have layers of people to get through to be heard; you know the people and can be more informal. Best resources are good relations in a small school district. I also developed a great network of other superintendents.

Superintendent 4

And where do I find the law? I think working closely with other superintendents in small districts and the administrative team is very valuable. Also, the Pennsylvania School Boards Association (PSBA) Law Forums helped me.

Superintendent 5

The PSBA puts out a nice little question and answer format.

Superintendent 7

When you get out in the field, you are going to have to know what's going on currently in your law field. Our attorneys send us all the updates. You can go to PASSA, PSBA or Bernie Hoffman clinics. (Bernard Hoffman is the PDE Chief Consultant on Risk Issues). Lehigh University has a great legal seminar which they hold every summer. PSBA will send representatives to the Lehigh seminar. I think that is a very valuable seminar and expect my administrators to go every year to get the updates.

Since I am almost a one-man show I always check the Pennsylvania Department of Education (PDE) Web site. There's a place called 'Teacher Tenure Appeals' that's where you will find a lot of information on cases. It will tell you what happened. Of course, you have to follow your district policy when you feel litigation coming on. You have to check all your sources, this includes professional networks. Interaction with sitting superintendents, experience, and on-the-job training are ways to acquire legal knowledge.

Superintendent 8

We really value the Bernie Hoffman yearly seminars. Valuable information and he understands the needs of a small rural school district.

Superintendent 11

I attend frequent conferences in school law. Both the local and state conferences provide good current information. We also get legal case law updates and of course PSBA updates are excellent.

Superintendent 12

I think the PSBA publications are a great source, but there are others so you have to be aware of things going on. Intermediate Unit seminars, legal forums, those things come up all the time.

Superintendent 14

Everything I can or could do at the time. I really enjoyed learning about the law. As I said, my dissertation was on school law. So, I used *ILS*, PSBA, NOLPE, even, PSEA for any knowledge I could get.

It was evident by the superintendent's comments that educational institutions such as PSBA, PSEA, NOLPE and other legal seminars were rich sources to gain legal knowledge and current information, but they also emphasized the close relationships fostered by enrollment in the intermediate unit as a great source of acquiring legal information. Also the IU's provided a forum to interact and become involved with other superintendents from small rural school districts, thus sharing information and gaining insight to how other superintendents from similar school districts handled similar legal issues. This again, emphasizes the cultural theme present by identifying the importance of comingling districts with similar characteristics. Superintendents simply felt comfortable with sharing stories, concerns and ideas with others with similar needs and issues.

The superintendents also rely on the legal seminars offered by the Pennsylvania Association of School Business Officials (PASBO) for legal updates and information. PASBO holds an annual conference each spring. Along with the annual seminar, PASBO also offers a variety of publications and e-learning resources to assist superintendents achieve a foundational knowledge of current legal issues.

Superintendent 1

PASBO has certainly helped me. Also we have started reaching out to principals and superintendents and have started to have a dialogue with them about the superintendent's position. I think that is also a very good thing; it is one way I remain current. I always read the results in the *PSBA* pamphlets. I would also say what we haven't talked about is the changes. In small rural school districts, we are losing resources. (This specifically referred to the high turnover rate among superintendents.) The networking in small rural districts is very important because of the commonality of situations.

While statewide associations were the most noted sources of information, the superintendents also applauded the assistance offered by their local Intermediate Units. Each I.U. offers the superintendents the opportunity to come together and enter into a dialogue to exchange ideas, as well as, share knowledge pertaining to legal issues. The I.U. provides an opportunity to invite local as well as national legal experts to discuss the most recent case law. It also provides a networking opportunity for local superintendents to come together and share commonalities of concerns in a trustworthy environment.

Superintendent 2

In addition new administrators don't seem to want to attend meetings at intermediate units or elsewhere. Whether they think they are needed at the districts or whatever, the networking, especially in small rural districts, that happens at those meetings, I think is very, very important. At times you find them (superintendents) not doing it until they are into the position for four years and then sometimes it's too late. They need to do the networking and attend some of those groups that are out there for them.

Superintendent 3

I agree with (*Superintendent 2*) the network and professional organizations are most helpful. This is especially true in small rural school districts where everyone gets to know their colleagues because of many combined activities and connection to the Intermediate Unit. Superintendents educate their principals because of the natural progression – I learn from interaction, especially in our small district. I try to include my people as much as I can. Superintendent 101 today – is what's going on, this is what we need to do now, and we participate in a round-robin discussion. It's not some professor, who never had a

principal's position or been a superintendent. It's what's going on now. We look at the problem, ask 'what's your opinion now' and then we go around in discussion. That is where they're going to get their bag of tricks when they become superintendents in order to have a broad range of experiences and questions. With actual scenarios they can start putting it (knowledge) in their own minds. Then they have the way to know where to find the information.

Superintendent 4

Yes, the organizations and definitely the networking with those in the job are great. I learn current items from superintendents going through new problems. Also, I think one of the things that helped me coming in as a new superintendent was when other superintendents put together administrative retreats to bring all of the superintendents together so we could put our questions out there. The most important thing that occurred was networking. You knew there were people you could trust. Principals and superintendents were there along with (solicitor name) and I think that was invaluable.

Superintendent 5

Intermediate Unit meetings with all the I.U. superintendents and the meetings with all the superintendents at the Vocational Career Center with all the superintendents – you (superintendent) should never miss that. The tidbits you pick up are very valuable. This is a great way for superintendents in small rural school districts to learn - networking and from other superintendents.

Superintendent 6

Once you are on the job for a while, I think you learn to take any legal issue seriously. If you don't have any idea, in small rural districts use your network. For example, other superintendents, the intermediate unit, if you don't want to run up a money-call with the solicitor. We have a professional education committee. The committee develops a questionnaire every year and establishes priorities. Every year they want to know more about school law, so we use our resources for seminars, speakers, training, etc. Our district is small so we want to maximize our resources. Building a strong network of professionals, working cooperatively with your solicitor are all factors to help a superintendent, especially in a small district. We are really interdependent because most of the issues that come before us have occurred at one time or another in an adjacent district.

Superintendent 10

In a small district we also use the intermediate unit a lot. The resources and just having a sounding board is good.

Superintendent 11

Our networking with other superintendents, especially in small districts, is important because we usually have similar situations. Any legal conferences, networking among districts or proactive approaches to current legal trends...

Superintendent 14

If there were seminars and meetings at the intermediate unit, I participated. You know things change so fast that keeping up to date is very important. I never let a learning (legal issue) pass me by. If I had to really pick my most important one, it would be the association with other superintendents. The opportunities I had to meet with colleagues, at the intermediate unit or some other function just hashing out our similar problems and asking what others are doing is most important. Strip away all the fancy seminar talk and get down to facts. What happened and what did you do? That's the question that really gave me insight as to what is going on and how to handle it. You can't beat the actual comments from someone who experienced the incident that you are *not* going through.

Here the importance of the involvement of the relationships formed with other intermediate unit participants was again emphasized. The importance of networking and sharing legal issues and priorities with those in similar circumstance was evident. While acknowledging the importance of outside organizations, such as PASBO and some others, the superintendents really believed the interaction with colleagues in similar, small rural school districts provided the best opportunity to gain relevant legal knowledge to specifically address their needs.

Along with outside sources of legal information, many of the superintendents mentioned the need to utilize materials sent to the district in the form of printed materials, Michael Levin's legal volumes, as well as experience on-the-job as learning opportunities. Some of the superintendents were adamant, expressing a very negative view of additional college course work to maintain or inform them on current legal knowledge. Many expressed the concern that

universities, in their opinion, are out of touch with the realities of what is going on at the district level.

Superintendent 2

The first thing a new superintendent should do is to go buy Michael Levin's three volumes. They cost between \$500-\$600 dollars per year but, they are much better than trying to deal with the *PA School Code* on every issue. I learned this through experience. That (Levin) is a big resource and it's a little easier to find things than the *School Code* that is still dated 1949.

Superintendent 3

I really don't think a graduate course or Master's course can really do justice to what you really get thrown at you. I say it's cultural...just within the districts of this county. Mainly all small and rural and each district has its own little fire they have to deal with all of the time. I just think it's either a culture or atmosphere or whatever, but since we are all similar, it's just interesting to see how they relate to the same situation at times. We learn from each other. In rural schools there are no layers. We're here...you still can't get to the superintendent of a large city school. You'll never get directly to those superintendents. Even the board has a hard time getting to those superintendents. In a small rural school district we're exposed. We're readily available. I would say that litigation in education is every bit of 50 percent on-the-job training if not more, especially in a small rural school district. I don't think I was helped by university courses, especially taught by people who never served in the superintendent's position. Also, you have to keep in mind large urban districts and small districts have the same problems, but we just have less people and many times fewer resources to handle them. We are really on the front line.

Superintendent 5

Experience in the trenches is probably the best teacher. The path to the superintendent position should be a great learning preparation tool. If you teach in a small rural district, are an assistant principal and principal in a small rural school district, those jobs provide the best training. When I first came through the administrative ranks there were many steps: many assistant jobs, department head jobs, assistant principal, principal, assistant superintendent and then the superintendent. There was time to grow and to learn how to be an administrator. Hopefully through experience and so forth, just by being around other administrators you would have some feel for what administrative thinking is and what you have to do in litigation. Now there aren't that many of those kinds of interim positions. So many people are thrown from, 'I am a principal' to 'I am a superintendent' and they weren't a principal very long. This is especially true in small rural school districts where the longevity may not

be around because of people leaving for bigger districts and bigger money.

Superintendent 6

I don't think there is anything except experience. Experience is a great teacher.

Superintendent 7

I had a brilliant professor at (university named) and if he taught us one thing, he taught us how to dissect a law case and what you were looking for. What actions lead up to this and what laws were actually broken. Once you start breaking this (case) down, you start doing the issues in your head, you know the seriousness right away. If you are in a small rural school district, many times because of funding, you act as your own attorney to do early research. Very few attorneys really know school law because there is not a lot of money in it relative to other lucrative types of law.

Superintendent 9

Use each incident as a learning experience. As things occur if you learn from any past errors, they will not be a problem for future situations.

Superintendent 10

Every year or every other year we bring in the PSEA attorney and he goes over all the hot topics. That has been very successful for our staff and administrative team.

Superintendent 11

University classes are usually not taught by current people or people who have been in the position. We need current and related materials. In summation it's the school solicitor and the PSBA, but it would ultimately be based on the incident.

Superintendent 13

I've always been fortunate to have top legal support. That's a resource that has helped and prepared me. The law firm that I have been associated with provides yearly updates. It also provides an opportunity to network with other superintendents to hear what they are doing. Our system is a precedent based system, so usually what has occurred before is a precedent for certain situations. Generally speaking, I don't think only a local solicitor can provide all the updates. There are numerous legal update meetings, other superintendents, etc.

It was noted that, specifically for a resource guide, Levin's legal references are very important as is knowledge of the PA School Code. Again it is noted that

the distinct culture of small rural school districts fosters a reliance on superintendents in other similar school districts to ensure good advice is provided. Since the areas involving small rural school districts are usually contiguous, many of the administrators are members of the community and have progressed through the professional ranks in such communities. Thus, their reliance and knowledge of the areas fosters a similar cultural understanding of litigation issues and gaining knowledge to handle issues.

Suggestions for Legal Training

While there were strong opinions expressed on the need for additional training, the superintendents did not seem to have a hard consensus as to what the specific training should consist of. While many of them mentioned the need for current legal training, the exact type of training was not specific.

Superintendent 1

I don't always think that preparation programs are as current as they should be. I think that's a real issue. I am a (specific information omitted due to confidentiality). What the Pennsylvania Department of Education is doing is looking at university programs and they are evaluating them. They are sending out people to evaluate if school practices are aligned with not only PA Standards, but are your practices aligned with the rest of the state. I think this is valuable to bring concerns in all districts into alignment, then what's foremost in small districts and large districts can be addressed.

Superintendent 2

You go through these normal law classes and you sit and you study cases or you research things. That's all well and good and I guess you need so much of that, but if I were designing a school law course or something for superintendents, especially for small rural school districts, I would lead them through the procedures and process to know what to do because of practical experience. That's the biggest thing, knowing what to do because you put it into practice.

Superintendent 5

The people (at universities) many times are out of touch with what is going on in school districts. In small rural school districts relationships, leadership, and partnerships are very important. In turn they have very little to do with theoretical applications from researchers - instead of doers.

Superintendent 6

Scenarios...are more helpful than reading case law. You're not going to remember it unless you are participating.

Superintendent 12

It is so ever changing; I am not sure class work or classes would be best.

Superintendent 13

Information on how to help districts, especially small districts move forward. Proactive not reactive...

Superintendent 14

Unfortunately course work in universities is not as current as needed. Sometimes you get a retired solicitor or superintendent who takes you through history to talk about school law. Superintendents on a rotating basis, speaking to current issues and issues they are working through, perhaps partnering with a current solicitor would help. It really depends...with precedent many issues have similarities, so looking at the past really does assist with the current cases. It's just things rapidly change. We didn't have cell phones, video cameras and all the *stuff* coming at us in the past. Even for people teaching the *stuff*, it's tough to stay current.

In reviewing the superintendent's remarks, while many of the legal issues in school districts are similar, the need to emphasize good communication skills, foster good community awareness and be cognizant of cultural history in small rural school districts is vital in handling issues of litigation. Superintendents in small rural school districts stressed the need for specific courses in legal training to be relevant and supply practical experiential information to insure relevancy of knowledge. While the similarities of legal issues are obvious in all school districts, the community and juxtaposition of employees, board members and history remain singularly different in small rural school districts.

Suggestions included:

1. Additional course work taught by instructors with practical experience
2. Less theoretical course work and additional course work taught by sitting superintendents

Superintendent 3

One of the things I liked about (university where superintendent earned certification) is most of their faculty were former or current superintendents. They would bring in day-to-day situations. Most of them were probably superintendents within the last 2 years. Many of them were superintendents in small rural school districts. To me that's a course that would be valuable. If you're just going to get somebody that is degreed to teach at a university and teach a leadership course, I wouldn't get involved with that one.

Superintendent 4

Another course (to earn the Letter of Eligibility) wouldn't do it. When I was an assistant superintendent my superintendent had what he called "superintendent inbox tasks" and said, "here's a problem what would you do?" He gave us time to think and discussed it with us – so that was good training. Since we were in a small rural school district everything (situations) was good training.

Superintendent 7

I had a professor that would present a scenario then ask an open ended question such as. "What would you do?" Then he would tell us the actual outcome of the case. We all entered into the dialogue and really got into the heart of options, then learn the outcome.

Superintendent 8

We had a great professor that actually took us to the law school moot court and made us enact an entire court case. We had to do everything that you would have to do in an actual case. It made the whole thing more real...actual law.

Superintendent 10

Professors who are currently in the position (superintendent) on a weekly basis would bring us hot topics. It wasn't hypothetical, so you felt like if something like this pops up in your district, you're more ready. In a small district you're hit all the time, so you may never be ready emotionally but

at least you know if something comes at you, and you understand it from past discussions from someone in trenches, you're more prepared.

One superintendent did offer a novel idea to include an internship in the requirements for the Pennsylvania Letter of Eligibility. His rationale was that the individual seeking the position would be provided 'hands-on' training during the internship to enable an individual to gain some on-the-job training and practical experience.

Superintendent 14

You know what I really think now? I believe a required internship with practical application would have really been valuable. Today we hear so much about mentoring and coaching that instead of just getting a piece of paper and getting the job, some learning with a successful superintendent would be very valuable. Some type of mentorship program would be great. I know it sounds impractical and time consuming but many times it might convince some people that the superintendent's job may not even be what they want.

The participants expressed great interest when asked to provide their opinion of the litigious nature of society and specifically how it influences the superintendent in a small rural school district. Participants in the first focus group all expressed similar assessments that negotiating the school climate is more complex and that they needed to be much more responsive to law as it relates to education.

Comments pertaining to preparation for the position of superintendent agreed with reservations about whether teaching institutions are capable of altering their leadership preparations to effectively educate superintendents to adequately address the myriad of issues of law.

While educators have continually discussed the on-going quality of education programs prior to the publication of *a Nation at Risk* (National Commission on Excellence in Education, 1983) superintendents in the first focus group agreed it seems to be the practical involvement and interconnectivity to other superintendents that is most beneficial in addressing legal issues in the small rural school district.

The remarks of the participants in the second focus group were similar to the participants of the first group. The participants emphasized the need to have a strong relationship with colleagues, maintain a life-long learning attitude and make sure you follow policy and procedure along with good documentation.

The third focus group participants and individual interviewee indicate their perceptions in handling legal issues are similar based on similar accountabilities of handling situations. Generally, superintendents perceive the small size of the district and proximity to community indicates an almost personal involvement in legal issues. The focus groups show that superintendents feel the community is intimately involved with the faculty and staff. How superintendents handle legal issues may indicate how the community views the school. Also, by managing legal issues superintendents maintain a smooth working relationship with the school board.

Summary of Findings

The perceptions of superintendents regarding legal issues in small rural school districts were explored through the use of focus groups. The researcher facilitated three separate focus groups and one individual interview due to the

superintendent's inability to attend the focus group. Upon conducting and analyzing the focus groups and interview the data began to reveal emerging themes and patterns as related to the focus group questions to specifically answer the research questions.

Research Question 1

What types of litigation have the superintendents in small rural school districts been involved in during the last five years?

Of the 14 superintendents involved in the focus group sessions and single interview, there were 26 separate cases of litigation reported. Six of the litigation cases involved teacher misconduct resulting in termination of employment. Seven of the litigation cases involved teacher misconduct resulting in suspension, transfer or penalties against a teacher. Also seven of the litigation cases involved issues involving special education. Four of the litigation cases involved student misconduct and one case involved litigation against a parent because of sexual abuse of his child. Of the 26 separate litigation reported by the superintendents only one case involved litigation against a school district administration resulting in termination.

Research Question 2

What has been the impact of litigation in small rural school districts?

The superintendents evaluated the impact of litigation in various areas. The areas included:

1. Employees
2. School Governance

3. Students
4. Collective Bargaining
5. Torts
6. Sports
7. Finances
8. Funding
9. Superintendent Hours
10. Administrative Hours
11. Community

During the dialogue each superintendent acknowledged that each area is impacted by litigation. The areas most impacted by litigation by far were school governance, collective bargaining, students, sports, finances, superintendent hours, administrative hours and the community.

Research Question 3

What do superintendents in small rural school districts do when legal problems arise?

The specific answers varied between the 14 superintendents but after analyzing the responses the analysis depicted a pattern. While the specific time it took each superintendent to do so, the majority of superintendents when legal problems arise, contact the school district solicitor. Superintendents are also proactive in notifying the district insurance carrier. Superintendents also meet with the administrative team as well as notifying the community with clear communications.

Research Question 4

How have or do the superintendents in small rural school districts acquire knowledge or find materials that will help them understand the laws applicable to legal problems when they first arise?

The superintendents collectively state that state organizations such as PASBO and PSBA are probably the most frequently used vehicles in reviewing the latest information pertaining to legal issues. Other frequently used methods include researching the Pennsylvania School Code, Intermediate Unit legal seminars, the PDE website and purchasing Michael Levin's Legal Volumes. Superintendents also expressed the need to network with other superintendents and finding experience on the job as a benefit to understanding legal issues when they first arise.

Research Question 5

What should be the legal training for superintendents in small rural school districts?

The general consensus of the superintendents involved in the focus groups is that there is a need for current legal study to prepare for the superintendent's position. While PSBA Legal Forums were specifically mentioned as good, the superintendents all mentioned the need for specific course work taught by current superintendents to ensure reliability of practical experience in providing current legal knowledge. One novel idea was the need for a mandatory internship for the superintendent's position, designing practical on-the-job training in anticipation of employment.

Summary

This chapter discussed the research findings from the focus groups and interviews conducted with 14 individuals with the Pennsylvania Letter of Eligibility for the superintendent's position in Pennsylvania. All of the superintendents are or have been employed in small rural school districts in Butler, Mercer, or Clarion County. From the focus group questions asked to answer the specific research questions, the following themes emerged: (a) a majority of the litigation in school districts involve teachers, students and specifically special education issues; (b) the primary impact of litigation in small rural school districts falls on the number of hours superintendents and administrative teams must devote to preparation and litigation issues; (c) when litigation issues arise the superintendents in small rural school districts are first dependent on the school solicitor; (d) superintendents in small rural school districts initially acquire knowledge when legal issues arise through state organizations and networking with other superintendents; and finally (e) superintendents in small rural school districts believe there is a need for increased current legal education in preparation for the superintendent's position taught by current superintendents.

Finally, the analysis of the legal issues in small rural school districts indicates the position of superintendent will face increase challenges and require additional legal preparation for the position. Chapter Five will offer a summary of the findings and conclusions related to the research data and will offer recommendations for future research.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

The purpose of the study was to identify the particular nature of legal issues in small rural school districts, and examine the extent to which superintendents currently serving in small rural school districts in the Commonwealth of Pennsylvania are adequately prepared to address the complex legal issues that frequently arise in small rural school districts. Additionally, the study identified the practices of these superintendents when they are confronted with specific legal questions.

Most public school districts are million dollar entities. The school superintendent acts as a corporate CEO, and advises the school board on contract and general business affairs, human resource and collective bargaining issues, state and federal constitutional provisions, state and federal statutory issues, and case law that may impose liability on the school district. The superintendent also represents kindergarten through 12th grade curriculum and student issues, and must be aware of the most significant legal issues of our time.

A number of Supreme Court decisions involving public schools have had a major impact on the history of the United States:

Brown v. Board of Education – the Court abolished segregated schools, setting our nation on the course of fully integrating our society.

PICS v. Seattle School District – the recent race conscious student assignment plan case may reverse the impact of Brown and hamper efforts to achieve diversity in the classroom.

Tinker v. Des Moines School District unofficially known as the “black armband case,” brought into question a public high school student’s right to wear a black arm band to protest the Vietnam War.

Morse v. Frederick – better known as the “Bong Hits 4 Jesus” case, further refined the vast number of permutations on the topic of student free speech.

Litigation continues to impact all decisions by educators. Joyce (2000) reported that the threat of lawsuits is causing administrators to cancel programs and to change the way their staff interacts with students each day. Within the last several years the position of superintendent has developed into one that requires additional, and seemingly more in-depth, knowledge of law and the legal system because of the wide range of legal issues influencing the lives of teachers, students, parents, and administrators (Fischer, et al., 2003). Advocates of larger school districts cite the advantages of increased, concentrated resources and efficiency of a large administrative staff to address complex issues facing schools (Hannaway and Kimball, 2001). Superintendents in small rural school districts without large administrative staffs for collaboration must meet the same increased legal mandates with a small managerial staff and limited external support.

The superintendent’s position, especially in small rural school districts with a small administrative support system, has rapidly changed to address the ever

expanding social, economic, and legal challenges of today's constituency. "The nature of the position of superintendent of schools is...extremely public, highly scrutinized, and time demanding" (Glass and Franceshini, 2007, p.11). A diversified knowledge base and a firm grasp of the laws interacting with education are necessary as superintendents prepare to face increased threat of litigation. "Rural school districts and their superintendents face specific obstacles that render service less attractive than in larger urban settings; these obstacles include isolation, limited resources, and community resistance to change" (Barker, 1985, p. 6). Therefore, superintendents in small rural school districts have addressed the need for dealing with increased litigation in various ways because the superintendent usually finds that s/he has the sole responsibility of the school district, acts as the chief executive in the community, and is often the target of public criticism.

The researcher was particularly interested in the types of litigation that occurred in small rural school districts, the superintendents' preparation for handling these issues, and additional training needed by superintendents to address the myriad of litigation. Consequently, three specific focus groups were conducted with a total of 13 superintendents from small rural school districts and one separate interview with a superintendent of a small rural school district to specifically address questions pertaining to types of litigation, preparation, and the effects of litigation in small rural school districts. Chapter Four presented all the data organized by the study's guiding questions and their relationship to the attributes of litigation in small rural school districts. The findings identified in the

summary presented the overarching themes that emerged from the three focus groups and one interview.

Conclusions

Three recurring themes supported by data were: 1) the need for open, honest, and transparent communication, 2) superintendents in small rural school districts prefer to gain legal knowledge within comfortable cultural settings that have relational ties to professional organizations and local intermediate units, and 3) educators within the culture have pre-eminence to move from teacher to assistant principal, then to the position of principal, and often into the superintendent's position at the same or another rural school district within the precincts of the area.

Communication

Communication is the lifeblood of a school district. The literature on school reform and change emphasizes the importance of how the superintendents' position is rapidly changing to address the ever-expanding social and economic needs of today's constituency (Murphy, 1992). School administration is being shaped by forces in the environment that demand we rethink the business of school leadership. Many parents and teachers expect a part in the decision making agenda, thus the very nature of the close involvement of the community in small rural school districts necessitates timely communication on a daily basis to address control of communication flow in potential and actual litigation issues.

As one focus group participant said, "Communication is very important. You (superintendents) are not expected to know everything, but what you do

know you have to share.” Another participant stated, “Communicate first - sometimes this prevents a law suit.” Litigation in small rural school districts involving teacher misconduct, discipline, and termination was specifically monitored by the community members due to the interrelatedness of staff, student, and community proximity. Consequently the superintendent was critically aware of the need to ensure the communication flow was current and enabled community members the opportunity to have questions and concerns addressed immediately. In reviewing the interaction of the superintendent and the role of communications, superintendents involved in the study were extremely aware of the importance of communicating immediately because everyone has direct involvement, as a result strong personal opinions regarding issues evolve. As mentioned, litigation creates conversation and poor communication creates fodder for community conversations. Those involved in the litigation, due to the nature of small rural schools, may be neighbors, friends, co-workers and employees. This makes it necessary for superintendents to encourage two-way communication and share information concerning litigation as soon as it becomes available. Keeping the lines of communication open and encouraging two-way communication with employees, board members and community members may avoid numerous pitfalls before gossip becomes toxic. What is made public is extremely important because of the possibility of gossip being perceived as truth. As one participant noted, “In a small rural school district you have to move fast because the informal communication channels are at work immediately.” Thus, communication in an information-based society has made

communication a crucial skill for school administrators (Kowalski, Petersen, and Fusarelli, 2007). Along with communicating openly and honestly, one participant also noted that superintendents have a high level of concern in controlling or monitoring communication when legal problems arise. In numerous responses it was related that communication control is needed to ensure perception does not overtake the facts of the situation. Based on the superintendents involved in the study this would seem especially noted in small rural school districts.

Community

The superintendents involved in the study stated that in many instances school board meetings, administrative forums, and community involvement are dominated by people who have special interests or agendas. In the 2001 education policy and planning study, *Just Waiting to Be Asked*, the authors reported that “school leaders are eager for public engagement in educational decision making, but the venue they rely on most – the school board meeting – is primarily seen as a vehicle for the most disgruntled citizens” (p. 10). This study also elicited that although “six in ten of the persons interviewed said they would not be able to name their superintendent, an overwhelming 60 percent of the general public (parents, nonparents, and seniors) said they would like to see more community involvement in the schools” (p. 15). With school litigation in small rural school districts consuming an inordinate amount of time, budget resources, and involving individuals closely interrelated in the district, it becomes the focal point of community conversation and impedes the superintendent’s ability to deal with other important issues. When focusing on litigation

superintendents tend to take time from issues directly related to curriculum, teacher supervision and evaluation, and issues impacting the economic viability of a small rural school district. Almost all the superintendent participants cited the extensive hours spent on litigation, saying that litigation is time consuming, wastes energy, and prevents focus on the educational programs.

The very nature of litigation requires time-consuming, patient interaction between the involved parties; the slow nature of movement causes additional time for everyone in the community to become involved, express opinions, and unfortunately take sides. As one participant superintendent stated, “As you know there are close relationships in small school districts, many times opinions are formed based on perception.” Another went on to say, “In small rural school districts the closeness of the problem and the closeness of the people are very noticeable.” Because the superintendent of a small rural school district is most directly responsible for maintaining the relationship between school and community, s/he must consider many factors including the community when legal matters result in litigation.

Glass and Franceshini (2007) said, “The nature of the position of superintendent of schools is extremely public, highly scrutinized, and time-demanding” (p. 11). Superintendents must interact with the community in many ways during turbulent times, and s/he must interpret complex issues for the community. Also, as mentioned by the superintendents involved in the study, a majority of superintendents in small rural school districts, as well as many of the administrative team, live in the district and have a community-oriented

philosophy, thus can monitor school-community relations closely and attempt to maintain a positive school climate. Public school superintendents are held responsible for everything that happens in every school within their respective school district from elementary to middle schools through high school (K-12). Superintendents must be knowledgeable in areas of school law and finance, and see every facet of education as it relates to the community (Glass, 2006). In a nutshell, a public school superintendent can be held responsible for everything good or bad that happens in any public school under his or her jurisdiction. Consequently, as enumerated numerous times by the study group, board members as elected officials maintain close ties to community members and develop strong opinions concerning litigation issues.

The analysis and interpretation of the data from the focus group interviews reveal a common pattern in that the responses typically demonstrate that litigation in small rural school districts, along with taking an inordinate amount of administrative time due to small administrative staffs, also takes a personal toll due to the closeness of the community to the district. When litigation is involved community members have strikingly different views and attitudes concerning the litigants and facts based on family ties, school board interaction, and deep-rooted perceptions concerning the educational process in the community. In dealing with conflict superintendents must seek amenable solutions. Educational research indicates that there is a “wide range of legal issues that influence the lives of teachers, students, parents, and administrators” (Fisher et al., 2003, p. xiii). As noted by one superintendent participant, “Small rural school districts are very

interrelated; you don't know who is related to whom." Many times the community looks to the school district for leadership in all areas.

Culture

Culture is a term used by social scientists for a people's way of life. It refers to almost everything encompassing activities of language, technology, and traditions. In attempting to classify specific tendencies to categorize and characterize small and rural, it is obvious there is no single definition. Since there is no single definition of *rural*, it follows that there is no clear definition for *rural education*. Carmichael (1980) confidently defines rural education as "that education provided the school-age children residing in rural areas," but then notes that "there is some confusion over the term rural" (p. 21). Dunne (1981) affirms that there is such a thing as rural education, but cautions that it is not found in large rural schools and not even in all small schools. Rios (1988) reported that rural education seems to be defined by close and supportive ties between families and schools.

Often educators in small rural school districts have been on-the-job in the same school district for many years. Also, it seems there is ascendancy from teacher to assistant principal, to principal, and in some instances, to a superintendent's position in a small rural district. Theobald and Nachtigal (1995) noted that a new superintendent in a small rural school district was selected because *s/he's country*, in other words s/he would fit in... s/he would provide the kind of educational leadership that was right for the community. Educators, especially those with superior reputations, may move around the area but stay in

the small rural confines of the area. These educators may have experienced many instances of litigation and many different issues during a career. Long time employees may also be related to members of the school board and live in the area and attend social functions with them. This makes it comfortable to acknowledge systems, procedures, and policies that have a particular regional understanding, and perhaps not consciously, look to and trust local organizations and authority to acknowledge as sources of knowledge and learning. As one superintendent noted, "In large districts the culture is based on a more formal structure where adversarial relationships may promote more litigation; superintendents in small rural areas are usually from the area and know the area."

Consequently, when asked about gaining additional legal knowledge, most of the superintendents involved in the focus groups seemed to favor legal experts recommended by the local intermediate unit, seminars, and organizations that are familiar to administrators in small rural districts. By far the superintendents saw fellowship, sharing knowledge, and interaction with fellow superintendents as a rich source of legal knowledge. The lessons learned indirectly as well as insights gained from experiences that fellow superintendents learned fit the cultural expectations of the superintendents from small rural school districts to foster professional growth in legal knowledge. This was reinforced by numerous comments by superintendent participants such as, "The networking in small rural school districts is very important because of the commonality of the situations." Also, "Networking and professional organizations are most

helpful...this is especially true in small rural school districts where everyone gets to know their colleagues because of the many combined activities.” One superintendent went on to say, “It’s cultural...I just think it’s either a culture or atmosphere or whatever, but since we are all similar it’s just interesting to see how they (problems) relate to the same situation at times.”

While acknowledging the benefits of the seminars and information provided by the Pennsylvania School Boards Association (PSBA), Pennsylvania Department of Education (PDE), Pennsylvania Association School Business Organization (PASBO), and other providers, the superintendents involved in the study relied more on local expertise and shared knowledge to gain insights into current legal information. The small school district's need for specific information and the cultural and familiar surroundings of the school and community are seen as most likely to benefit the superintendents in small rural school districts.

Superintendents in small rural school districts, speaking comfortably about networking with fellow superintendents in the area and participation in intermediate unit legal seminars, discussed the value of building relationships with other superintendents, thus trusting their counsel more than major legal practitioners from outside the area or additional university class work. The superintendents seemed to value practical knowledge of area superintendents who have experienced a legal issue over courses taught by a retired solicitor or university professor without any practical experience as a superintendent. Almost a unanimous agreement by the participants was the value placed on networking with superintendent colleagues and the worth of their experience. Comments

such as, “Experience in the trenches is probably the best teacher.” “I don’t think there is anything except experience; experience is a great teacher.” These comments reinforced the participant superintendents’ closeness, camaraderie, and trust in fellow superintendents from small rural school districts.

Therefore, to summarize the findings of this study with relationship to communication, community, and culture, all the data supported the research that despite recent signs of change, administrative preparation programs remain under attack for being too theoretical or insufficiently rigorous (Cooper et al., 2002). Ensuring qualified, successful candidates for future administrative roles entails a practical approach to foster leadership in legal matters rather than developing managers with a custodial mentality dependent on outside legal expertise to provide definitive answers to daily problems. The effectiveness and appropriateness of educational administration programs are usually portrayed to be poor and inadequate. Recent national reform studies have found little value in the current programs and their faculties (Levine, 2005; Teitel, 2006). As noted, weak faculty, low admission standards, inadequate clinical supervision, and irrelevant curriculum characterize administrator preparation programs in reform literature. Particularly important is that many aspiring or new superintendents do not have experience in working daily with school board members or with issues related to legal challenges (Glass, Bjork, and Brunner, 2000). These studies indicate a more practical approach is needed, especially in small rural school districts that advance a more realistic approach to cultivating leadership, rather than developing managers dependent on outside legal expertise to answer daily

legal questions. The emerging concept of legal issues in small rural school districts will require a preventative concept of legal problems with increased communication among educators and parents, and an internal review of school district policy.

The research indicated that ensuring qualified, successful candidates for future roles entails a practical approach to foster leadership. Respondents agreed that one of the most valuable experiences for superintendents in small rural school districts was knowledge of the district, usually by serving in a subordinate position in a small rural school district. The research reaffirms the realities of experiencing distinct cultural traditional relationships, having time to maintain relationships in the district, and developing personal relationships with a district solicitor and personal interconnectedness, i.e., intermediate units, associations, Pennsylvania School Boards Association (PSBA), Pennsylvania State Education Association (PSEA), Pennsylvania Association of School Business Officials (PASBO) and Pennsylvania Association of School Administrators (PASA) to deal with legal ramifications.

This study indicates superintendents in small rural school districts are bound by need to develop powerful networking communities within professional circles to attempt to find resources to assist them through difficult legal issues. As one superintendent participant noted, “You can’t beat the actual comments from someone who has experienced the incident that you are going through.” Universities should revise preparation programs to assist future candidates for the superintendent’s position to provide district leaders with the knowledge and

skills to create well-focused learning organizations within the confines of local districts, and to assist superintendents to understand the complexities of today's legal issues particular to the size and location of the district. In addition, superintendents in small rural school districts understand the powerful social changes and cultural implications lawsuits play in the education system (Tyack and Benavott, 1985). Parents and teachers (community) expect a part in the decision making agenda. Numerous issues with potential litigation consequences cause superintendents to maintain a pulse on the community and master clear and truthful communication practices.

The research substantiates the superintendents acknowledging that what has changed in the field of education is the overwhelming governance structure, community control, special education standards and student populations, thus requiring additional attention by preparatory superintendent programs. What the superintendents indicate is that preparatory programs need to focus on practical knowledge to make informed decisions. Since superintendents face legal issues every day, the superintendent needs to understand the law not only as a reference, but as a practical realm to utilize in daily decisions.

In conclusion, the superintendents acknowledge the increased legal cases, time, budgetary implications, complexity of litigation in small rural school districts, and the need for additional training. The data reflected that there is not a clear indication to what specifically will remedy the situation. While communication, community, and culture are consistent indicators of similarities of the superintendents' influence in handling litigation in small rural school districts,

there is noted room for further study to indicate what specific needs will address the increase of litigation in small rural school districts.

Implications of Findings

Litigation is a costly item for all school districts, and many small rural school districts have experienced additional hardships because of the increase in lawsuits and a relatively static tax base. While there have been increased attempts to educate school administrators on the increased need for additional awareness, training, and proactive measures to address legal issues, there remains a general consensus that, in particular in small rural school districts, something additional is needed to address their specific concerns. In the study all of the superintendents were cognizant of increased litigation, all had faced labor intensive, expensive and unique cases, but the general consensus indicates superintendents in small rural school districts require reform to address the *real* training necessary to effectively manage legal issues. A reality seen by superintendents in small rural school districts is that the time of the central office staff working for one or two administrators is consumed by a legal issue. In small rural school districts the superintendent works with a business manager and principals in performing the myriad of management tasks common to districts of all sizes. The role of the superintendent is a *management employee*. There is simply no one else to do the work. Consequently in legal issues the solicitor is needed to assist small rural school districts as authorized. Unfortunately, what is not specifically identified is whether a superintendent can be adequately proficient in roles requiring knowledge in multiple legal issues.

Policy and procedures in school districts often appear to legislate appropriate conduct, unfortunately there are always individuals challenging policy that cross the line of demarcation, challenging decisions that the superintendent must deal with day to day. Consequently the study indicates, regardless of the legal issues, superintendents must understand methods of communication, nuances of the community, and the specificity of cultural standards of the area to ensure when litigation arises the district remains on path to sustain the vision and goals of the district.

A recommendation from the study would be to ensure candidates for positions as superintendents in small rural school districts recognize the total school district (Hersey and Blanchard, 2001). If litigation is managed properly district credibility with the community and employees will survive even the most disruptive issues. Since in small rural school districts, more than 70 percent of superintendents are former secondary school principals (Glass et al., 2000), initial legal training for current superintendents should ideally begin during the initial assistant principal level and continue to principal and central office experience. A legal training path would offer an opportunity to ensure congruent legal knowledge throughout a preparation program. This would enable efforts toward preparation programs to offer matching sequenced curriculum throughout the certification process from principal to superintendent.

A further recommendation would be to ensure university coursework train superintendents to be generalists in areas of specific school law. Specific courses in contract law, torts, environmental law, etc. would prepare

superintendents to be responsive to the multi-faceted nature of school law, instead of ignorance to the totality of legal ramifications. Along with college and university course work, the role of professional organizations certainly seems to logically be prepared to address the specifics of small rural school districts. At the state level, since the demographics are known for small rural school districts, associations could do a better job at addressing the specifics of legal issues for these particular districts. The comradely spirit of trust engendered by the fellowship of superintendents in similar communities and cultures offers development opportunities for members to gain additional knowledge in legal issues addressing their district.

Recommendations for Future Research

The position of superintendent in a public school system seems to becoming an overwhelming challenge due to the proliferation of legal issues as well as numerous other education tasks. Increased awareness of rights, absent personal responsibility, presents numerous issues each day. University based courses and training provided by state agencies will require superintendents to be visionary leaders and excellent day to day managers. Due to the specificity of small rural school districts, superintendents will also require close association with local communities to ensure constituents are continually updated on issues requiring involvement in litigation. Perhaps preparations programs will provide tentative delineate of superintendent training structures outlining rural versus urban study, and afford instruction to ensure a candidate is prepared to manage districts with diverse community and culture needs. The recurring themes that

run through the study indicate that school leaders' focus on such critical tasks as communication, collaboration with stakeholders, and understanding the culture engrained in small rural school communities. Although a number of university preparation programs have altered their content and pedagogy to provide meaningful training to aspiring superintendents, our focus group participants agreed that little attention was given to the particular needs of their districts. In areas of legal training it would be advantageous to consider the attributes of a specific learning community to address specific needs for legal issues in small rural school districts.

It is now within our reach to select, train, and support superintendent candidates for positions applicable to the needs of specific school districts, for example, focusing on smaller rural districts or focusing on large urban districts. Developing a coherent model specific to the needs of rural or urban areas will enable school superintendents to adequately prepare for educational content in all areas of complex legal issues.

Recommendations for Practice

Based on the research, superintendent preparation specifically for superintendents in small rural school districts, seems to indicate a more current collegial curriculum is desired. One superintendent participant acknowledged, "Unfortunately (law) course work in universities is not as current as needed. Sometimes you get a retired solicitor or superintendent who takes you through history to talk about school law...perhaps (current) superintendents on a rotating basis, speaking to current issues they are working through, or perhaps partnering

with a current solicitor would help.” In a survey conducted by Robert Kennedy and Bruce Barker (1987) they concluded that a superintendent assigned to a small rural district faces challenges and problems which are different from a superintendent assigned to a large urban or suburban district. Research indicates the successful candidates for positions as superintendents in small rural school districts genuinely maintain an interest in and the ability to live and work in a small community with extended family or relatives living in the area. This seems to reinforce the participant superintendents’ focus on networking and building strong relationships with colleagues. As noted by one superintendent, “Our networking with other superintendents, especially in small districts, is important because we have similar situations.” Legal conferences and networking among districts are proactive approaches to current legal trends.

Preparatory institutions would do well in focusing on training candidates through programs spotlighting direct instruction from sitting superintendents. As one participant noted, “Superintendent 101 – is what’s going on, this is what we need to do now, and we (need) participation in round-robin discussions. It’s not some professor, who never had a principal’s position or been a superintendent.” Many of the participants do not believe preparatory programs are current, nor do they focus on procedures and processes needed for practical experience; they focus primarily on theoretical approaches in education.

This study was based on the fact that no data currently existed to determine the types of litigation occurring in small rural school districts and the impact on the districts. Research based on scientific study of the rural

superintendent is scant (Arnold, 2004; Sherwood, 2000). Consequently, the researcher was particularly interested in how superintendents in small rural school districts managed the impact of litigation, especially as related to the myriad of issues facing public education and if preparatory requirement are sufficient to address the dramatic changes challenging public school superintendents.

Through focus group interviews using standard protocol of questions and conducted according to Krueger and Casey's (2000) recommended approach the researcher conducted sessions with fourteen superintendents currently or having served as superintendents in small rural school districts in Pennsylvania.

The superintendents spoke frequently about the legal challenges confronted and the challenges related to their lack of training for the specific nature of legal challenges. They also spoke about the challenges related to the rural environment, to the lack of specialized personnel and experience, and to the lack of acculturation to the setting and expectation of the rural superintendent. Rural superintendents voiced the challenge of school law, especially in the recent cases of potential litigation. One superintendent stated that "everyone wants to sue; superintendents always have to be watchful." The continuous threat of litigation is a concern because there is a need for increased understanding of legal details, and a familiarity with due process and the realization of inadequate training for rural superintendents.

The primary conclusions about the challenges in the small rural superintendency are evident from this study. The most obvious solution to the

increased demands of litigation is to examine the application of increased support systems, including additional networking with comparable superintendents in a rural setting. Also, rural superintendents noted satisfaction with employment associations, perhaps providing a more vocal, more visible, and persistent rural voices. The last factor notes that the challenges of superintendents in small rural school districts are different enough to warrant some specialized training for services in small rural school districts.

Just as prior research indicated a need for improved teacher preparation, this research indicates a need for additional training for superintendents in small rural school districts. There is a need for more research on the subject, and additional feedback and perspectives from sitting superintendents.

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APPENDICES

Appendix A

Pennsylvania Public School Superintendents Needed

Focus Group on School Law and the PA Public School Superintendent

Participants will be volunteers at a location convenient to the participants.

Henry Sinopoli, former public school superintendent in Pennsylvania and currently a doctoral candidate, is conducting a focus group to evaluate what types of litigation superintendents in small rural school districts have been involved in and the impact of litigation on small rural school districts. Also, what superintendents in small rural school districts do when legal problems arise, and what legal training there should be for superintendents in small rural school districts.

When: To be announced

Where: Location convenient to participants

Time: At convenience of participants

Contact Henry Sinopoli at henry@hdscoach.com or telephone 724-355-5317.

Appendix B

Focus Group Confirmation Letter

Dear _____ Name _____

Thank you for your willingness to participate in the focus groups. As discussed on the telephone, I am interested to hear your ideas and opinions about litigation in small rural school districts and your opinions about handling these concerns. You will be in a group of other public school superintendents from the Commonwealth of Pennsylvania. Your responses to the questions will be kept anonymous. You will be reimbursed for any out-of-pocket expenses due to your voluntary participation. The day, time, and place are listed below. Please follow the directions on the Website for the (to be announced location), directing you to where the focus groups will be held.

Date: _____

Time: _____

Place: _____

If you need additional information or will not be able to attend for any reason, please telephone: 724-355-5317. Otherwise we look forward to seeing you.

Henry D. Sinopoli, Superintendent of Schools, Retired
Doctoral Candidate

Appendix C

Consent to Participate in Focus Group

You have been asked, and have agreed to voluntarily participate in a focus group sponsored by Henry D. Sinopoli, dissertation candidate. The purpose of the focus group is to examine the types of litigation superintendents in small rural school districts are involved, the impact of litigation, what superintendents do when confronted with litigation, and their opinion as to what the legal training should be for superintendents in small rural school districts. This information is to satisfy the requirements for a doctoral dissertation.

You can choose whether or not to participate in the focus group and stop at any time. Although the focus group will be electronically recorded, your responses will remain anonymous and no name will be mentioned in the report. All information will be stored in a locked cabinet in the office of the primary investigator for three (3) years as mandated by federal law. All information will then be destroyed. In order to ensure answers are fully covered there may be follow-up individual interviews.

There is no right or wrong answers to the focus group questions. We want to hear many different viewpoints and would like to hear from everyone. We hope you can be honest even when your responses may not be in agreement with the rest of the group. In respect for each other, we ask that only one individual speak at a time in the group, and that responses made by all participants be kept confidential.

I understand this information and agree to participate fully under the conditions stated above:

Signed: _____ Date: _____

Appendix D

Focus Group Questions

1. The *American School Board Journal*, February 2009, listed the top legal issues public school superintendents are likely to encounter in a school district. In order to discuss the frequency of litigation your school district has encountered during school year 2005 to the present, please be prepared to discuss:
 - Have you encountered any litigation dealing with teacher discipline/termination and what impact has the litigation had on the school district?
 - Have you encountered any litigation dealing with student discipline and what impact has the litigation had on the school district?
 - Have you encountered any litigation dealing with special education and what impact has the litigation had on the school district?
 - Have you encountered any litigation dealing with school governance and what impact has the litigation had on the school district?
 - Have you encountered any litigation dealing with teacher sexual misconduct and what impact has the litigation had on the school district?

2. For each separate litigation issue what is an estimate of the number of hours spent on researching, preparing for litigation, and actual litigation time per issue?
3. As superintendent, what do you first do when informed of pending litigation?
4. As superintendent, how do you evaluate the seriousness of pending litigation?
5. What do you do to remain current in knowledge pertaining to legal issues affecting the school district?
6. Which resources offer the greatest potential for a superintendent in a small rural school district to gain legal knowledge and information to remain current?
7. As superintendent, do you have a procedure for reviewing incidences on a day-to-day to evaluate the escalation of events as they relate to litigation issues?
8. What resources would have helped you to be better prepared as a superintendent in a small rural school district?
9. What specific education and training would you as a superintendent in a small rural school district like to receive about legal issues pertaining to school districts?
10. Is there anything else you would like to share with us pertaining to litigation in your school district?