

Brigham Young University Education and Law Journal

Volume 2015 | Number 1

Article 1

Spring 3-1-2015

Frontmatter

Follow this and additional works at: <https://digitalcommons.law.byu.edu/elj>

Recommended Citation

Frontmatter, 2015 BYU Educ. & L.J. (2015).

Available at: <https://digitalcommons.law.byu.edu/elj/vol2015/iss1/1>

.

This Frontmatter is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Brigham Young University Education and Law Journal by an authorized editor of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

**BRIGHAM YOUNG
UNIVERSITY
EDUCATION AND
LAW JOURNAL**



VOLUME 2015

NUMBER 1

BRIGHAM YOUNG UNIVERSITY EDUCATION AND LAW JOURNAL



Volume 2015

Number 1

Brigham Young University Education and Law Journal is published by the Brigham Young University Department of Educational Leadership and the J. Reuben Clark Law School, Provo, Utah 84602. All communications should be sent to the editorial offices at the J. Reuben Clark Law School.

Views expressed herein are to be attributed to their authors and not to the *Brigham Young University Education and Law Journal* nor to Brigham Young University, unless otherwise indicated.

SUBSCRIPTIONS: The *Brigham Young University Education and Law Journal* is published twice annually. The subscription rate is \$32 for one year, \$58 for two years. Periodicals postage paid at Provo, Utah, and at additional mailing office Pub. # 128170. Send address changes to:

Brigham Young University Education and Law Journal
JRCB 471G
Provo, Utah 84602

CITATION: 2014 BYU EDUC. & L.J. [page number]

ISSN: 1930-5273

ONLINE ISSN: 1930-5281

Copyright © Brigham Young University Education and Law Journal, 2015.

BRIGHAM YOUNG UNIVERSITY
EDUCATION AND LAW JOURNAL

Volume 2015

Number 1

Editor-in-Chief

TYLER BROWN

Executive Editor

JENNIFER HALES

Publications Editor

D. OWEN JOHNSON

Note & Comment Editors

JOSH JAMES

STEPHANIE MORSE

Lead Articles Editors

GRANT ARNOLD

CLAUDIA BOYD-SHELLEY

JONATHAN EVANS

CATHY GRAHAM

Managing Editor -

Publication

ANTHONY LOUBET

Managing Editor -

Administration

JON EDWARDS

Solicitations Editor

TIM HEMMING

Submissions Editors

RACHEL BENNION

CHARLOTTE SAGUIBO

DIANA TROCHEZ

Senior Editors

ADAM BALINSKI

ASHLEY BERTOLDO

CLARK CAMPBELL

JONI LAWRENCE

ALLIE HALES

Associate Editors

ERIN ADAMS

STEPHANIE COTTON-

BETTERIDGE

CASSIDEE FEINAUER

COURTNEY FEINAUER

TREVOR FUGATE

TYLER HEID

ANGELA MEDDIS

ZACHARY MELTON

PERRIS NELSON

PAUL ROBERTS

SHAUNTE RUIZ

BRIAN SABEY

RYAN SLAUGH

ZAC SPARROW

STUART TAYLOR

MORGEN WEEKS

Faculty Advisor

SCOTT E. FERRIN

Dean Advisor

KIF AUGUSTINE-ADAMS

**BRIGHAM YOUNG UNIVERSITY
EDUCATION AND LAW JOURNAL**

Board of Advisors

CHARLES J. RUSSO, J.D.,
ED.D.
University of Dayton

PHILIP T. K. DANIEL, J.D.,
ED.D.
Ohio State University

RICHARD FOSSEY, J.D.,
ED.D.
University of North Texas

FRANK BROWN, PH.D.
University of North Carolina,
Chapel Hill

FRED HARTMEISTER, J.D.,
ED.D.
Texas Tech University

DOUG STEWART, PH.D.
Queensland University of
Technology, Founding Editor,
Australia & New Zealand Journal
of Law & Education

JAY HEUBERT, J.D., ED.D.
Teachers College, Columbia

WILLIAM THRO, J.D.
University of Kentucky

RALPH MAWDSLEY, J.D.,
PH.D.
Cleveland State University

JULIE UNDERWOOD, J.D.,
PH.D.
Former Associate Executive
Director & General Counsel,
National School Boards
Association

JULIE F. MEAD, PH.D.
University of Wisconsin,
Madison

MARTHA MCCARTHY, PH.D.
Indiana University, Bloomington
Penn State University

BRIGHAM YOUNG UNIVERSITY
J. REUBEN CLARK LAW SCHOOL FACULTY

Faculty

- ASAY, CLARK (2014), Associate Professor of Law. B.A., 2001, Brigham Young University; M. Phil., 2002, University of Cambridge (Darwin College); J.D., 2007, Stanford Law School.
- AUGUSTINE-ADAMS, KIF (1995), Associate Dean and Charles E. Jones Professor of Law. B.A., 1988, Brigham Young University; J.D., 1992, Harvard Law School.
- COLLINGS, JUSTIN M. (2013), Associate Professor of Law. B.A., 2006, Brigham Young University; J.D., 2010, Yale Law School; Ph.D., 2013, Yale University.
- DANIELS, BRIGHAM (2010), Associate Professor of Law. B.S., 1998, M.P.A., 2000, University of Utah; J.D., 2003, Stanford Law School; Ph.D., 2010, Duke University.
- DOXEY, GARY (2009), Associate Director, International Center for Law and Religion Studies. B.A., 1980, J.D., 1984, Brigham Young University; PH.D., 1992, University of Cambridge.
- DURHAM, W. COLE, JR. (1976), Gates University Professor of Law and Director, International Center for Law and Religion Studies. A.B., 1972, J.D., 1975, Harvard University.
- FARMER, LARRY C. (1974), Marion G. Romney Professor of Law. B.S., 1968, University of Washington; Ph.D., 1975, Brigham Young University.
- FEE, JOHN E. (2000), Professor of Law. B.A., 1992, Brigham Young University; J.D., 1995, University of Chicago.
- FLEMING, J. CLIFTON, JR. (1974), Ernest L. Wilkinson Professor of Law. B.S., 1964, Brigham Young University; J.D., 1967, George Washington University.
- GEDICKS, FREDERICK M. (1990), Guy Anderson Chair and Professor of Law. B.A., 1977, Brigham Young University; J.D., 1980, University of Southern California.
- GERDY, KRISTIN (1995), Teaching Professor and Director, Rex E. Lee Advocacy Program. B.A., 1992, J.D., 1995, Brigham Young University.
- GORDON, JAMES D. III (1984), Assistant to the President for Planning and Assessment, Marion B. and Rulon A. Earl Professor of Law. B.A., 1977, Brigham Young University; J.D., 1980, University of California, Berkeley.
- HERNANDEZ, CARL III (2001), Associate Professor of Law. B.A., 1988, J.D./M.P.A., 1992, Brigham Young University.
- HOAGLAND, MARY H. (1994), Assistant Dean. B.A., 1978, Brigham Young University; M.A., 1982, San Diego State University; J.D. 1984, San Joaquin College of Law; Ph.D., 2007, Brigham Young University.
- HURT, CHRISTINE. (2014), Rex J. & Maureen E. Rawlinson Professor of Law. B.A., 1990, Texas Tech University; J.D. 1993, University of Texas School of Law.

JENNEJOHN, MATTHEW C. (2013), Associate Professor of Law. B.A., 2002, Brigham Young University; MSc, 2004, London School of Economics; J.D., 2007, Columbia Law School.

JENSEN, ERIC TALBOT (2012), Associate Professor of Law. B.A., 1989, Brigham Young University; J.D., 1994, University of Notre Dame, The Law School; LL.M., 2001, The Judge Advocate General's School; LL.M., 2006, Yale Law School.

JONES, RONNELL ANDERSEN (2008), Associate Dean and Professor of Law. B.S., 1995, Utah State University; J.D., 2000, The Ohio State University.

MOORE, DAVID H. (2008), Professor of Law. B.A., 1992, J.D., 1996, Brigham Young University.

NIELSON, AARON L. (2013), Associate Professor of Law. B.A., 2003, University of Pennsylvania; LL.M., 2006, University of Cambridge Faculty of Law; J.D., 2007, Harvard Law School.

NÚÑEZ, CAROLINA D. (2007), Associate Professor of Law. B.A., 2001, J.D., 2004, Brigham Young University.

PHILLIPS, JAMES C. (2015), Visiting Assistant Professor of Law. B.A., 2004, Arizona State University; M.A., 2009, Brigham Young University; J.D., 2014, University of California, Berkeley.

PRESTON, CHERYL BAILEY (1989), Edwin M. Thomas Professor of Law. B.A., 1975, J.D., 1979, Brigham Young University.

RASBAND, JAMES R. (1995), Dean and Hugh W. Colton Professor of Law. B.A., 1986, Brigham Young University; J.D., 1989, Harvard Law School.

SCHARFFS, BRETT G. (1997), Associate Dean and Francis R. Kirkham Professor of Law. B.S./B.A., 1986, M.A., 1987, Georgetown University; B.Phil., 1989, Oxford University; J.D., 1992, Yale Law School.

SMITH, D. GORDON (2007), Glen L. Farr Professor of Law. B.S., 1986, Brigham Young University; J.D., 1990, University of Chicago Law School.

STANCIL, PAUL (2014), Professor of Law. B.A., 1993, J.D., 1996, University of Virginia Law School.

STEELE, MICHALYN (2014), Associate Professor of Law. B.S., 1992, M.A., 1994, Brigham Young University; J.D., 2001, Georgetown University.

SUN, LISA GROW (2008), Associate Professor of Law. B.S., 1994, University of Utah; J.D., 1997, Harvard Law School.

WARDLE, LYNN D. (1978), Bruce C. Hafen Professor of Law. B.A., 1971, Brigham Young University; J.D., 1974, Duke University.

WELCH, JOHN W. (1980), Robert K. Thomas University Professor of Law. B.A., 1970, M.A., 1970, Brigham Young University; J.D., 1975, Duke University.

WORTHEN, KEVIN J (1987), University President and Hugh W. Colton Professor of Law. B.A., 1979, J.D., 1982, Brigham Young University.

J. REUBEN CLARK LAW SCHOOL FACULTY

Part-Time Faculty

AFFLECK, ADAM S.
ANNICCHINO,
PASQUALE
AVERY, ROBERT
BARLOW, MATTHEW
BENSON, DEE V.
BURDSAL, NATHAN
CLARK, ELIZABETH
CLEMES, KAREN
COLLINS, KENT
COOK, BENJAMIN J.
CUNDICK, TED
DAVIS, MARK D.
DUTCHER, DAVID
FALE, HUTCH
GIGGER, JOSHUA
GLADE, LEEANN
GRIFFITH, SUSAN

HOPKINS, STEVEN
JANIS, BLAIR E.
JENKINS, JENS C.
JENSEN, DANIEL
JENSEN, MARY
KIMBALL, DALE A.
KIRKHAM, DAVID M.
LEE, THOMAS R.
LENHOF, LANCE S.
LINTON, MORRIS D.
LORIMER, BRENT
LYMAN, PAUL
MANDERINO, CHASE
MATIS, GREG
MCCLEVE, SHEILA K.
MCCULLOUGH, LEE S.
MOURITSEN, STEPHEN
MURRAY, KEVIN R.

NUFFER, DAVID
NYDEGGER, CHAD
OLDHAM, J. LAVAR
OWEN, STANFORD B.
PEAD, DUSTIN
PEARSON, JOI
PETERSON, JANET
PHILLIPS, GREGORY
TAYLOR, RYAN
TENNEY, RYAN
TIPPETT, RUST
TODD, DAVID R.
VAN WOERKOM, DANIEL
WARNER, PAUL M.
WATERMAN, STEVEN
WELCH, MEGAN
WHITT, STEVE
WISE, JANE

BRIGHAM YOUNG UNIVERSITY DEPARTMENT OF EDUCATIONAL LEADERSHIP AND FOUNDATIONS

Chair

Sterling C. Hilton

Faculty

- BOREN, DAVID MCKAY (2014), Assistant Clinical Professor. B.S., 2003, M.S., 2006, Ph.D., 2010, Brigham Young University.
- FERRIN, SCOTT E. (1997), Associate Professor. B.A., 1980, J.D., 1984, Brigham Young University; M.Ed, 1989, Ed.D, 1996, Harvard University.
- GEO-JAJA, MACLEANS A. (2005), Professor. B.S., 1976, Morehead State University; M.S., 1980, Indiana State University; Ph.D., 1986, University of Utah.
- HALLAM, PAMELA R. (2006), Associate Professor. B.A., 1979, M.Ed., 1990, Brigham Young University; Ed.D., 2006, University of Utah.
- HILTON, STERLING C. (2003), Associate Professor. & Chair, B.A., 1987, M.A./M.S., 1990, Brigham Young University; Ph.D., 1996, John Hopkins University
- HITE, JULIE M. (2006), Professor. B.S., 1980, M.O.B., 1995, Brigham Young University; Ph.D., 1999, University of Utah.
- HITE, STEVEN J. (2003), Professor. B.S., 1980, M.S., 1982, Brigham Young University; Ed.D., 1985, Harvard University.
- MAYES, CLIFFORD T. (1996), Professor. B.A., 1977, University of Arizona; M.A., 1979, University of Oregon; M.A., 1981, University of Arizona; Psy.D., 1992, Southern California University; Ph.D., 1997, University of Utah.
- PRATT, MICHAEL S. (2012), Visiting Professor. B.S., 1975, University of Utah; M.Ed., 1979, Ed.S., 1983, Ed.D., 1989, Brigham Young University;
- RANDALL, E. VANCE (2003), Professor. B.S., 1975, M.Ed., 1978, Brigham Young University; Ph.D., 1989, Cornell University.
- RICHARDS, A. LEGRAND (1996), Associate Professor. B.S., 1975, Brigham Young University; M.Ed., 1976, Harvard University; Ph.D., 1982, Brigham Young University.

Part-Time Faculty

POULSEN, DENIS P.
SORENSEN, CHRIS

INTRODUCTION

The *Brigham Young University Education and Law Journal* is published twice yearly through a cooperative effort of the J. Reuben Clark Law School and the Brigham Young University Department of Educational Leadership and Foundations. It provides a forum for scholarly works concerning legal topics within the field of education. The *Journal* primarily focuses on discussions of legal issues faced in higher education and by K-12 school administrators, teachers, and their legal advisors.

As one of a limited number of arenas for scholarly discussion in the field of education law, the *Journal* is always in the process of considering papers to publish. Papers dealing with any area of education law are considered by the *Journal* staff for publication. An abstract and the author's resume or vita should be included with each submission.

To expedite the editing and publication process, papers should be submitted electronically, in Microsoft Word version 97 or newer, to the e-mail address below. Subsequent communications will be sent to authors by e-mail whenever possible. When e-mail is unavailable, please mail a hard copy and a computer diskette. The *BYU Education and Law Journal* reserves the right to reject paper submissions for any reason.

To submit papers, subscribe to the *Journal*, obtain past issues, or make comments, please contact the *Journal* at:

BYU Education and Law Journal
Brigham Young University
471G JRCB Provo,
UT 84602 (801)
422-3671
lawed@law.byu.edu

**BRIGHAM YOUNG UNIVERSITY
EDUCATION AND LAW JOURNAL**

Volume 2015

Number 1

Articles

- Restructuring the Modern Education System in the
United States: A Look at the Value of
Compulsory Education Laws
Chelsea Lauren Chicosky, M.Ed., J.D. Candidate.....1
- Church-State Entanglement at
Religiously Affiliated Charter Schools
Janet R. Decker, J.D., Ph.D. & Kari A. Carr, Ph.D.....77
- Bullying Issues Impacting Students with
Disabilities: Highlights of Section 1983,
Title IX, Section 504, ADA, and IDEA Cases
Cynthia A. Dieterich, Ph.D., M.Ed.;
Nicole DiRado Snyder, J.D. &
Christine Villani, Ed.D., M.A.....107
- The Kids Aren't Alright: Rethinking the
Law Student Skills Deficit
Rebecca Flanagan, J.D.....135
- Special Education Due Process Hearing
Requests Under IDEA: A Hearing
Should Not Always Be Required
Timothy E. Gilsbach, J.D.....187
- The Misapplication of *Garcetti* in
Higher Education
Matthew Jay Hertzog, Ph.D.....203
- Balancing Prevention and Liability:
The Use of Waiver to Limit University
Liability for Student Suicide
Brittney Kern, J.D.....227

School Funding: Inequality in District
Funding and the Disparate Impact on
Urban and Migrant School Children
Rachel R. Ostrander, J.D......271

Corporate-School Partnerships and
Neoliberal Influences on Students as
Future Participants in the Labor Market
Adriane Kayoko Peralta, J.D., Ed.D......297

Unpaid Internships: Free Labor or
Valuable Learning Experience?
*Robert J. Tepper, C.P.A., M.B.A., J.D. &
Matthew P. Holt, J.D.*.....323

Student Notes & Comments

Indian Education: Maintaining
Tribal Sovereignty Through Native American
Culture and Language Preservation
Nizhone Meza.....353