

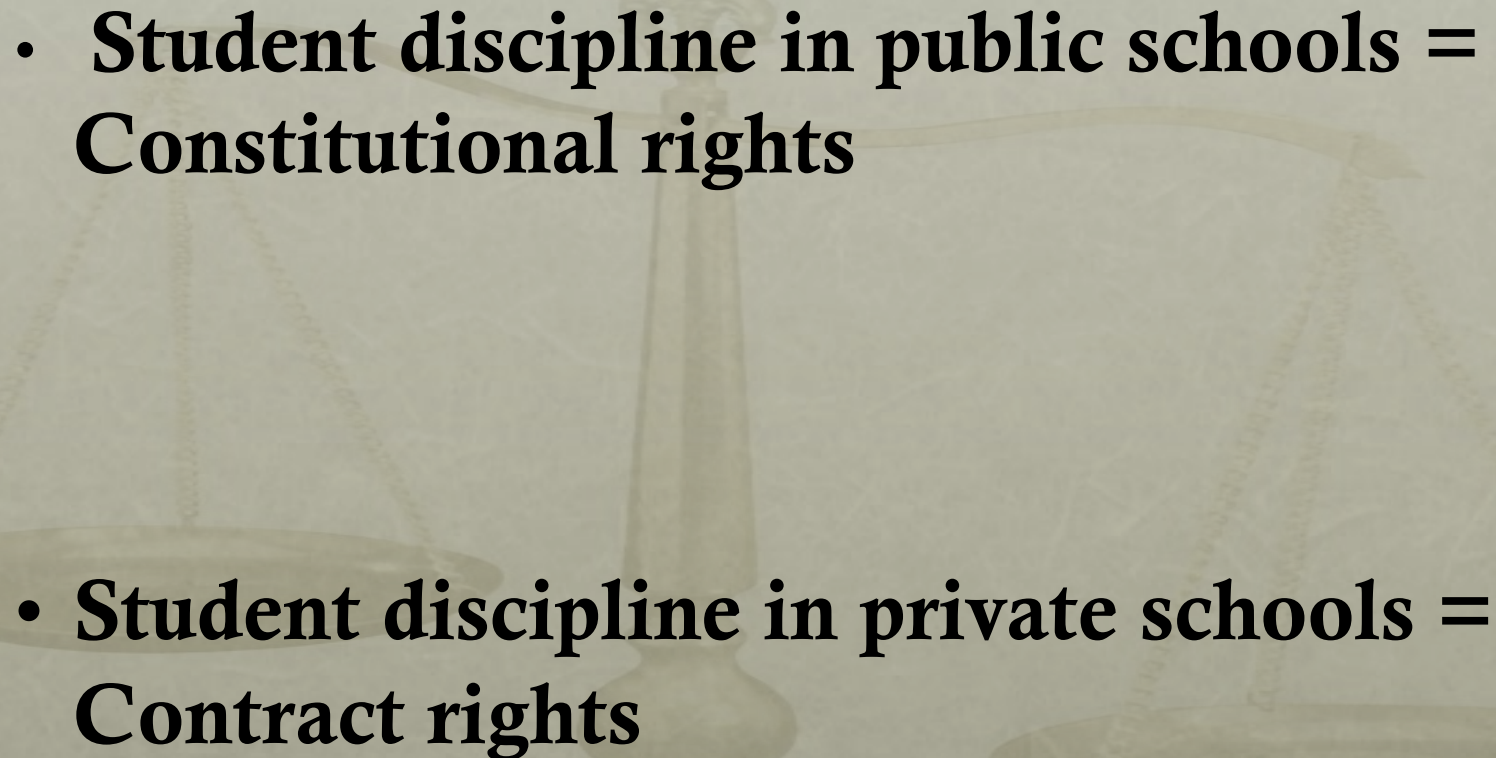
# SCHOOL LAW PRESENTATION



by  
**Dr. Lyndon G. Furst**



# STUDENT DISCIPLINE IN PRIVATE SCHOOLS

- **Student discipline in public schools = Constitutional rights**
  - **Student discipline in private schools = Contract rights**
- 

# STUDENT DISCIPLINE IN PRIVATE SCHOOLS

- A Look at Case Law
- Indiana (federal court): *Bright v. Isenbarger* (1970) due process not required.
- Louisiana: *Flint v. St. Augustine High School* (1975) “color of due process”
- Ohio: *Geraci v. St Xavier High School* (1978) “fundamental fairness”



# STUDENT DISCIPLINE IN PRIVATE SCHOOLS

- **A Look at Case Law**

**New York: Allen v. Harlem Intern. Community School (2008) school not upheld**

- **Alabama: S.B. v. St. James School (2006) off-campus behavior – school upheld**



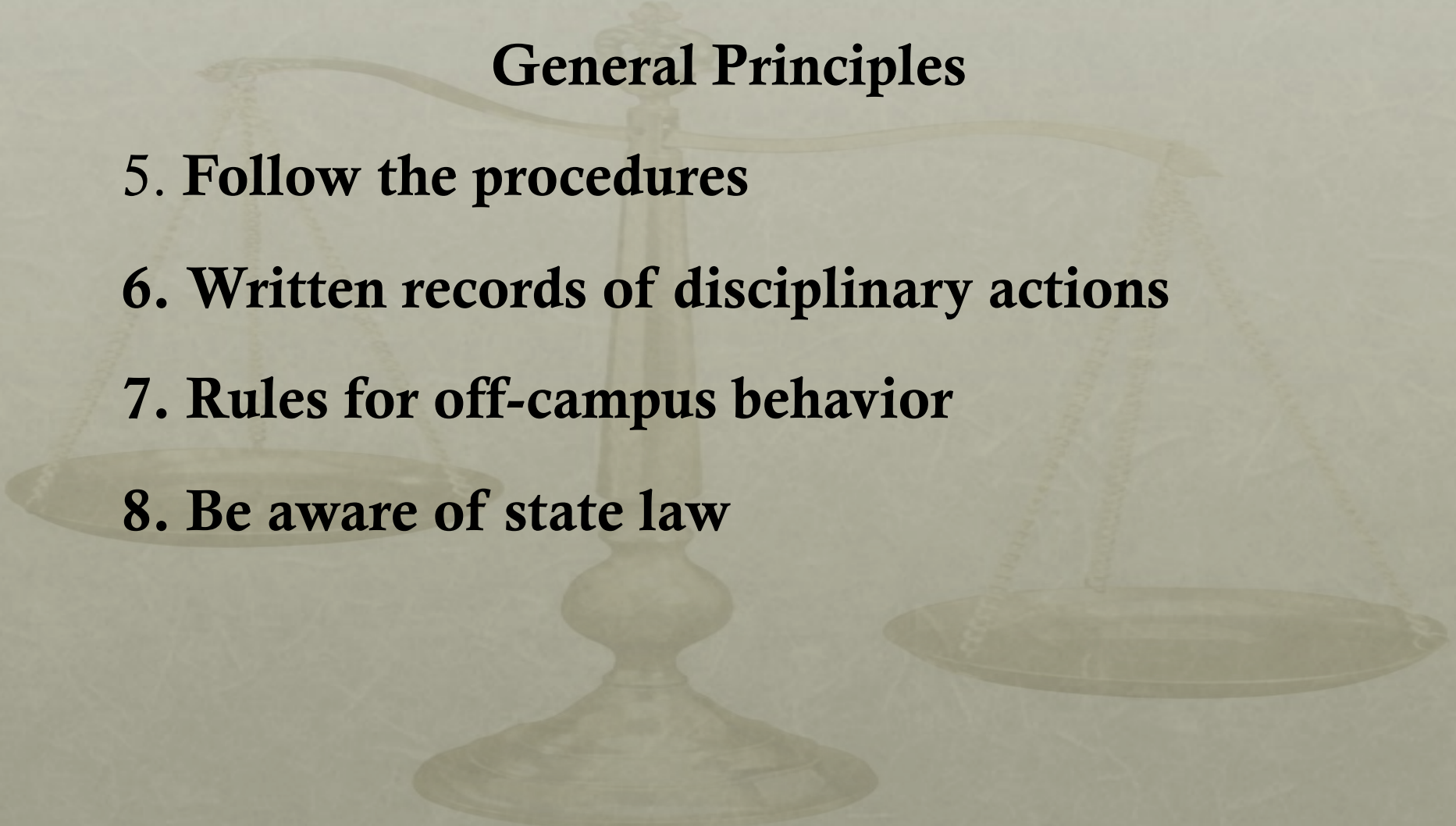
# **STUDENT DISCIPLINE IN PRIVATE SCHOOLS**

## **General Principles**

- 1. Not subject to due process requirement**
- 2. Student handbook – part of the contract**
- 3. Rules and regulations – understandable and unambiguous**
- 4. Written procedures for handling discipline**

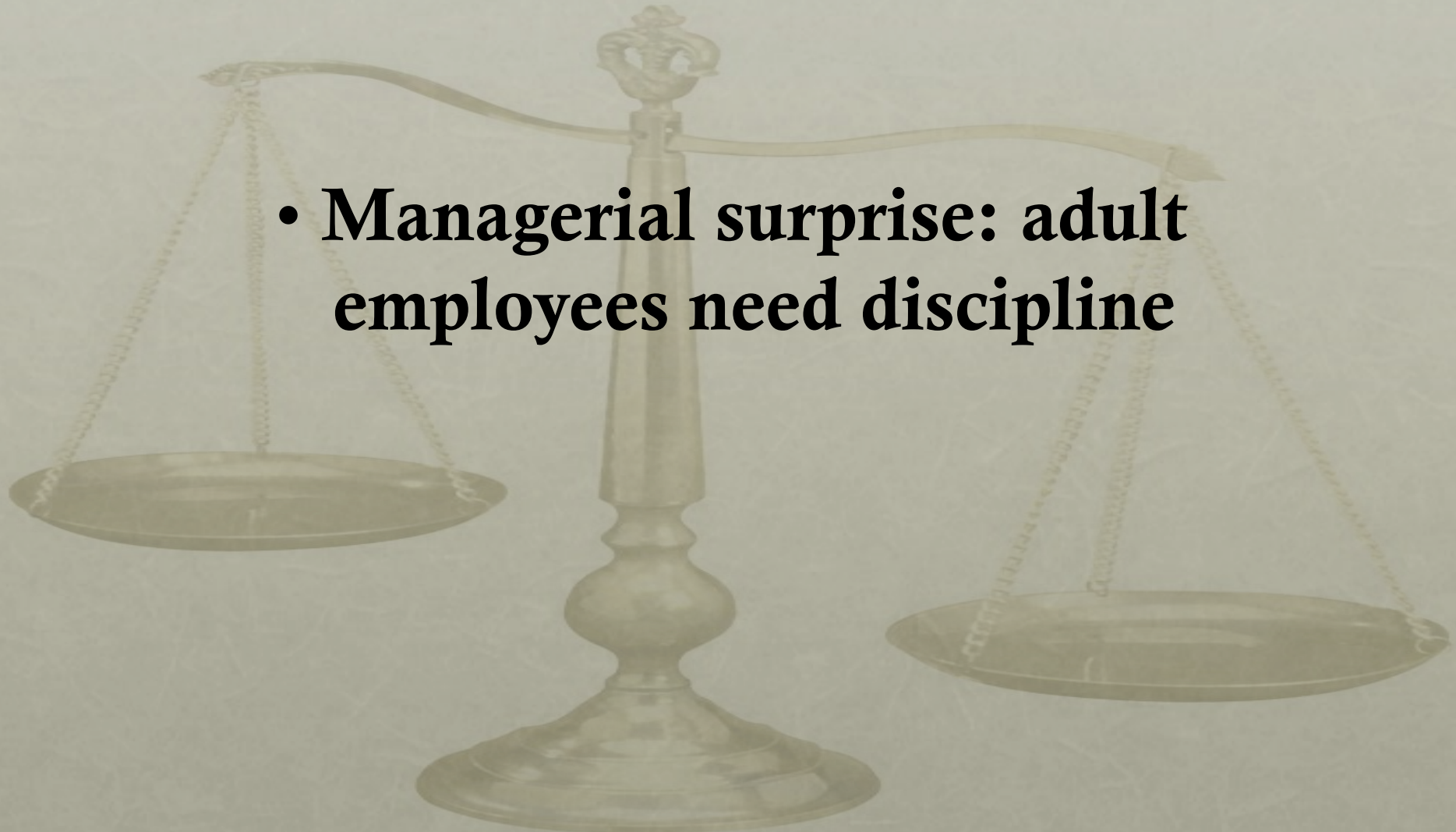
# STUDENT DISCIPLINE IN PRIVATE SCHOOLS

## General Principles

5. Follow the procedures
  6. Written records of disciplinary actions
  7. Rules for off-campus behavior
  8. Be aware of state law
- 

# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

- **Managerial surprise: adult employees need discipline**





# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## General Principles

- **Public school employees – constitutional protection**
- **Private school employees – contract provisions**
- **Employee violation of work rules is breach of contract**
- **Employer unjust discipline is breach of contract**

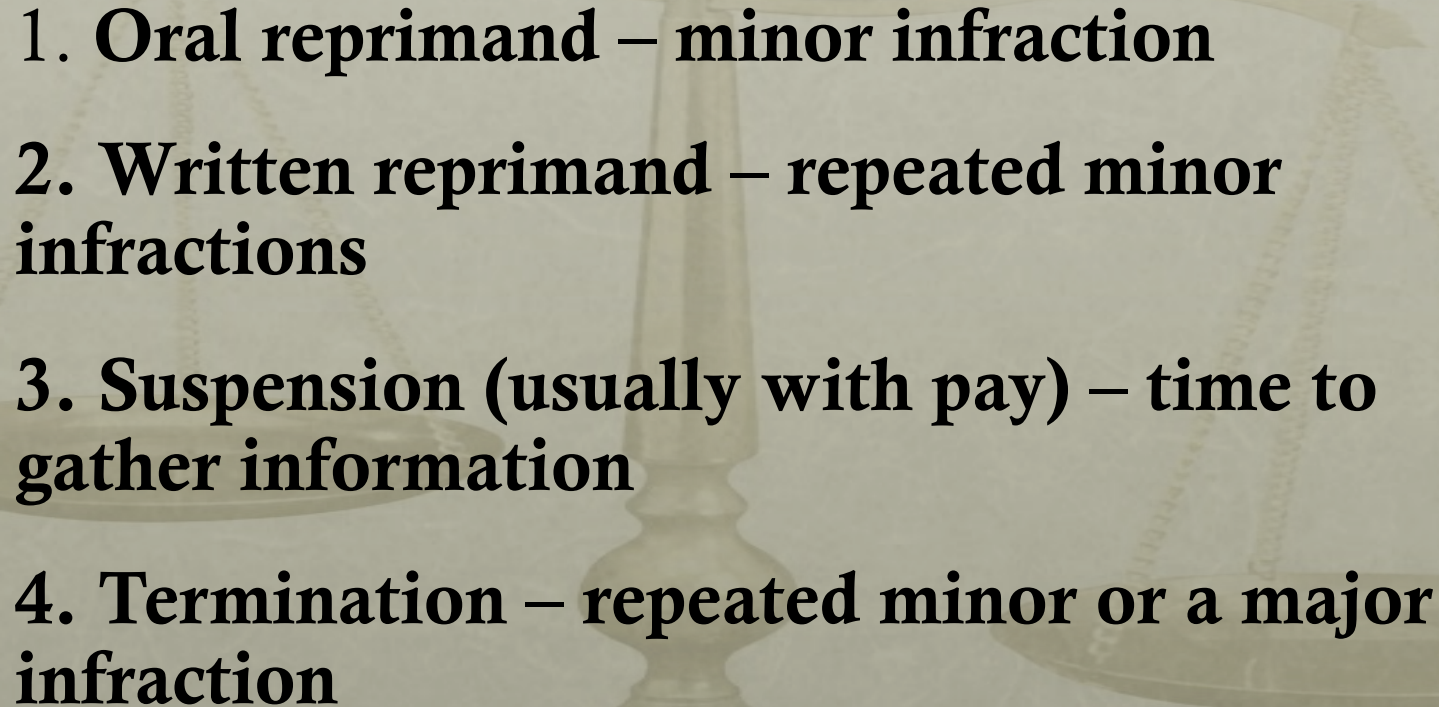
# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## General Principles

- **The employment section of Union Conference Education Code**
- **Conference superintendent takes the lead**
- **school principal collects basic evidence**
- **Apply discipline whenever there is an infraction of the work rules**

# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Progressive Discipline

1. **Oral reprimand – minor infraction**
  2. **Written reprimand – repeated minor infractions**
  3. **Suspension (usually with pay) – time to gather information**
  4. **Termination – repeated minor or a major infraction**
- 



# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Types of Employment Contracts

1. **At-will** – can be terminated by either party for any reason or no reason
2. **Annual** – for a specified period of time usually one year
3. **Continuing** – automatically renewed unless just cause for termination

# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Employment Status

### Lake Union Conference

#### Status

#### Type

Intern

Annual

Transfer

Annual

Regular

Continuing

Probationary

Not stated

# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Employment Status

Southern Union conference

### Status

### Type

Intern

At-will

Transfer

At-will

Regular

Annual

Probationary

At-will



# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Documentation

- If it is not written it did not happen!
- Types of documentation:
  - 1. Letters or memos
  - 2. Documents provided by employee
  - 3. Documents provided by third parties

# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Documentation

- Types of documentation:
  - 4. Professional evaluation
  - 5. Business documents
  - 6. Minutes of meetings

# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## Documentation: General Principles

1. No secret documentation
2. Verify accuracy
3. Keep confidential
4. Include only the bare facts



# EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS

## A look at case law

1. Illinois: **Nowak v. St. Rita High School (2001)** – school breached contract
2. Michigan (Supreme Court): **Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC (2012)** – ministerial exception

# **EMPLOYEE DISCIPLINE IN PRIVATE SCHOOLS**

## **Final Words**

**Know the Education Code**

**Follow the Code to the letter**

**Keep close to the superintendent**