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## Two Phenomena in Contemporary Music Education: Mental Toughness and the Law

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Two Phenomena in Contemporary Music Education:  
Mental Toughness and the Law

by

Jason R. Sivill

A dissertation submitted in partial fulfillment  
of the requirements of the degree of  
Doctor of Philosophy  
Department of Music Education  
College of the Arts  
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Keywords: applied music, copyright, education law, in-service music teachers, mental toughness, music education, studio teachers, post-secondary music studies, undergraduate teacher training

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## **DEDICATION**

To my teachers

## ACKNOWLEDGMENTS

I am indebted to Dr. C. Victor Fung, my dissertation advisor and teacher in many aspects of my journey through music education and research. I was fortunate to meet Dr. Fung in 2002, at Bowling Green State University (OH) where, then—as now—his work as my thesis advisor shaped my understanding of music education and research. More importantly, his impact on my way of thinking has led to any incisive intellectual capacities I have been able to develop.

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have taught or contributed to them. Whether I was uplifted and encouraged, or sternly challenged, their generosity has been excessive.

From as far back as I can recall, my father tried to foster in me a sense of reverence for education. I spent many years delightfully ignoring his messages, only to realize now, that nearly my entire life has been spent as a student of some type, or a teacher. Any drive that has impelled me to pursue education is probably ultimately attributable to my father's vision and wishes for me, and my mother's support for my involvement in music. I have been blessed beyond measure to have had an uncle and grandmother who supported me in every way possible and a family friend and trustee who carried on their wishes beyond their lifetimes. Most important has been the unwavering support of my brother and sister-in-law, without whom I could not have accomplished this degree.

## TABLE OF CONTENTS

List of Tables .....	iv
Abstract.....	v
Introduction .....	1
References .....	4
Article 1: Post-Secondary Musicians’ Interpretations of Feedback, Critique, and Critical Commentary: Is Mental Toughness a Factor? .....	6
Abstract.....	6
Post-Secondary Studio Musicians’ Interpretations of Feedback, Critique, and Critical Commentary: Is Mental Toughness a Factor? .....	8
A Roadmap for the Paper .....	8
An Isolated Phenomenon? .....	9
The Sweet Sounds of Praise .....	9
Self-esteem in School .....	10
Parents .....	11
Parent Involvement.....	11
In academic achievement.....	12
Post-Secondary Level Applied Music Studies .....	13
Musical expertise .....	13
Attributes of the lesson .....	14
Fora for criticism .....	14
The quest for approval .....	15
Identity.....	15
Stress and Stressors .....	15
Appraisal.....	16
Stressors.....	16
Ego.....	17
Anxiety and ego defenses .....	17
Competition .....	17
Auditions and evaluations .....	18
Studio classes and recitals .....	18
Hardiness .....	19
Commitment.....	19
Challenge .....	20
Control.....	20
Control and coping .....	20
Mental Toughness.....	21

The Present Study .....	21
Research Questions.....	22
Method.....	22
Participants .....	22
Materials .....	24
Pilot questionnaires.....	24
Studio teacher questionnaires .....	25
Studio member questionnaires.....	26
MTQ18 .....	26
Preliminary Data Analysis.....	27
Results .....	28
Limitations.....	33
Discussion.....	34
Recommendations for Further Study.....	37
References .....	38
Appendix A.....	49
Appendix B.....	53
Appendix C.....	58
Article 2: Music Educators and the Law .....	60
Abstract.....	60
Music Educators and the Law .....	62
State Law vs Federal Law .....	63
Teachers and contract law .....	63
Music Education and the Law .....	64
Contemporary issues.....	66
Summary.....	67
The Current Research .....	67
Method.....	68
Participants .....	68
Questionnaire.....	70
Sections.....	70
Results .....	71
Preliminary Data Analyses .....	71
Prevalent Legal Issues .....	71
Copyright.....	72
Religious music and lyrics.....	73
Protection of student health information .....	74
Law in Teacher Training .....	74
Likelihood of Litigation.....	76
Legal Issues in Totality.....	76
Discussion.....	77
Implications for Music Teachers .....	79
Suggestions for further research .....	80
References .....	82
Appendix A.....	87

Conclusions .....	91
References .....	93



## **LIST OF TABLES**

Table 1 - Article 1: Descriptive Characteristics of Studio Teacher Participants .....	23
Table 2 - Article 1: Descriptive Characteristics of Studio Member Participants.....	24
Table 3 - Article 1: Correlation Matrix for Studio Teacher Participants .....	29
Table 4 - Article 1: Correlation Matrix for Studio Member Participants .....	32
Table 5 - Article 2: Descriptive Characteristics of Participants.....	69
Table 6 - Article 2: Summary of Frequencies of Legal Issues.....	72

## ABSTRACT

This collection of works involved examinations of two phenomena that currently impact music education in the United States and constitute challenges for both pre-service and in-service music educators. Article one is an exploration of college aged musicians, their experiences with critical commentary and stressful scenarios encountered in and through applied music studies, and the role that mental toughness might play in these experiences.

This study examined the perceptions of college level studio teachers and their students.

Results of the study indicated that significant differences in mental toughness scores existed between the studio teacher group and the students (as a whole) and between the studio teacher group and 5 of the 6 student groups. Significant negative correlations were found between students' mental toughness scores and answers to three questions related to teacher criticism, student anxiety in lessons, and students' frequency of hurt feelings following feedback about their performing. Article 2 examined the perceptions of in-service music educators regarding aspects of education law. Participants included music educators ( $N = 152$ ;  $M_{age} = 41.7$ ) from each of the 50 states whose teaching assignments occur primarily at the high school (grades 9 – 12) levels. Results indicated that these participants viewed their undergraduate teacher training programs, and graduate studies, as having included very low levels of legal content. Few of the participants indicated receiving additional education and training from a legal specialist, and taking part in sessions on legal topics offered by their school districts and professional associations. The legal issues receiving the greatest numbers of selections as having been experienced by the participants included 5 aspects of copyright law, religious music/lyrics in educational and performance material, and protection of student health (i.e., medical)

information. The total number of legal issues selected was significantly correlated with the number of traveling groups (ensembles) with which the teachers were associated. Teachers of marching band indicated a greater number of total legal issues having been dealt with in their professional experience. And teachers of orchestra demonstrated fewer total numbers of legal issues experienced. In spite of the significant correlations, total expressions of relevant legal issues were largely unassociated with teachers of specific ensemble types.

## INTRODUCTION

In the late 1800s and early 1900s, Charles Sanders Peirce articulated a philosophy of pragmatism inextricably linked to realism and utility. Distinguishing intellectual concepts from emotion, Pierce's pragmatism, like that of William James, sought to ground determinations of meaning in contexts that promised some commonality of experience (Peirce & Buchler, 1955). The search for truth, then, was ultimately a search for meaning. And the quest for meaning had largely to do with attributes and characteristics that functioned in predictable and consistent ways. The ways things work, to put it more simply, formulated a basis for pragmatic inquiry.

Over 100 years beyond Pierce's writings, pragmatic thought still formulates a philosophical and theoretical backdrop against which many aspects of life are conceptualized and understood. In a modern, capitalist, primarily industrial economy, emphases on increases in efficiency, effectiveness, performance, and achievement underlie many, if not most, facets of life. Businesses thrive as a result of advancements in innovation and technology, which are driven by increasingly creative, knowledgeable, educated, capable people. So, the phenomenon of educating students has followed a predictable path. This is particularly evident over the last seventy years. Educators have been challenged to help students acquire, process, comprehend, commit to memory, and to effectively recall and retain information (Marfo, Mulcahy, Peat, Andrews, & Cho, 1991) with most outcomes directed to assessments on tests, performed under timed conditions.

In the early to mid- 20<sup>th</sup> century the Behaviorists contributed practices, like conditioning (Thorndike, 1911; Skinner, 1938) where reinforcers were central (Biehler & Snowman, 1990; Kaplan, 1991), information processing and recall techniques involving rote learning (Ausubel,

1963) acronymic and mnemonic devices, and stern conceptions of how training-based education occurs best when the student is attentive, focused, and receptive to the information transmitted by the teacher (Hopkins & Stanley, 1981). In such behavioral models of learning, discriminated operants were imparted (Skinner, 1968) and instructional situations were tailored to target domains, with performance on test items in mind (Butterfield, Slocum, & Nelson, 1993).

The decades beyond the 1970s have not been so friendly to this type of teaching and learning (Glover & Ronning, 1987; Kaminsky & Podell, 1997; Wolfolk, 1998). The era of cognitive psychology—defined as a theoretical perspective concentrated on memory, thought, and perception (Bruning, Shraw, & Norby, 2011)—has led to refined measurement techniques allowing for more insights into the inner workings of the mind, the human brain, as well as psychology. All of which has enabled the types of increased efficiency and effectiveness in learning necessary for innovation at a time in which lives are so heavily influenced by technology. Time is the critical commodity. In the current era, versus the former, the impetus is on acquisition of *more* information, in *less* time, and the use of that information in rapid contexts. But what happens when students find themselves facing learning tasks that require inordinate amounts of time? Progress in many activities that Bloom would have associated with the psychomotor domain, which is characterized by reflexive movements, fundamental movements, perceptual abilities, skilled movements, and non-discursive communication (Ahmann & Glock, 1981) is not so easily obtained. Indeed, these activities are not video games. Instant gratification occurs only to a point. Musical skill acquisition requires far more.

Beyond music learning and performing in U.S. primary and secondary schools, challenges, setbacks, stressors, and other potential impediments to success await those students who pursue music studies at the post-secondary level in colleges and universities. In such settings, the development toward—and acquisition of—musical expertise is usually under the

guidance of an applied music instructor who serves as both mentor and coach (Kennell, 2002). The paths to success are probably not trouble free. Students are forced to encounter an array of scenarios that reveal and serve as evidence of inadequacies as musicians, performers, and students. Whether direct or indirect, the ways these messages are perceived, interpreted, and contemplated substantively impact how the student recalibrates her route to eventual success, or lack thereof.

Framing nearly all student and teacher interactions, at any level, is a set of rules, boundaries, and limitations that are articulated first in applicable law, and then in an array of policies and procedures (Imber & Van Geel, 2001). Not surprisingly, these rules change from time to time, and often go unnoticed. The music educator is not exempt (Kerr, 2002). And, perhaps more importantly, the atypical constitution of teaching and learning that occurs in certain types of music activities tends to make controversy more likely than in conventional classroom settings (McIntyre, 1990). Marching bands, along with comparable activities like show choir, indoor drumline, and winter guard, usually involve contemporary music educators in some capacity, but exceed the conventional limits of classroom education in terms of out of school rehearsal time, environments necessitating individualized instruction, and a set of physical demands analogous to a sport. These activities may impose their own special challenges.

Both of the aforementioned phenomena offer opportunities for study. Inquiries into these phenomena stand to shed light on various features of learning, in contemporary contexts, that encourage further, and more refined research into these issues within the music education and performance subject areas. Along with substantial benefits to researchers and applicable literatures, numerous benefits may be derived for in-service and pre-service music educators.

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**ARTICLE 1: POST-SECONDARY MUSICIANS' INTERPRETATIONS OF  
FEEDBACK, CRITIQUE, AND CRITICAL COMMENTARY: IS MENTAL  
TOUGHNESS A FACTOR?**

**Abstract**

This study examined the perceptions of college level studio teachers and their students regarding feedback, critical commentary, rigorous expectations, and mental toughness.

A hyperlink connected to an electronic questionnaire was disseminated, via email, to college studio teachers seeking their participation in the study, and their assistance in the recruitment of their students for the study. Participants included six ( $n = 6$ ;  $M_{\text{age}} = 43.5$ ) college level studio (applied music) teachers of instrumental music, and their students ( $n = 31$ ,  $M_{\text{age}} = 29.10$ ). A questionnaire asked participants about their perceptions of teacher expectations, feedback and communication, student sensitivities, and aspects of identity and role modeling. Further, the questionnaires designed for use in this study were linked to a measure of mental toughness (Clough, Earle, & Sewell, 2002) called the MTQ18. Upon completion of the questionnaire, participants were automatically connected to the 18-item self-report inventory. Participants were able to view their score and see a score interpretation after completion. Data were analyzed to determine mental toughness scores for teachers and students, and to examine whether differences in the scores existed between groups. Similarly, questions from the questionnaires were examined to determine if correlations existed between the questionnaire items and the mental toughness scores, as well as among the questionnaire items themselves. Results indicated that significant differences in mental toughness scores existed between the studio teacher group and the students

(as a whole) and between the studio teacher group and 5 of the 6 student groups. Significant negative correlations were found between students' mental toughness scores and answers to three questions related to teacher criticism, student anxiety in lessons, and students' frequency of hurt feelings following feedback about their performing.

*Keywords:* applied music, mental toughness, post-secondary music studies, studio teachers.

## **Post-Secondary Studio Musicians' Interpretations of Feedback, Critique, and Critical Commentary: Is Mental Toughness a Factor?**

*"...students today...much like the generation before them, the only thing they are really interested in, is you telling them how right they are and how good they are."*

*"My students...all they want to hear is how good they are, and how talented they are. Most of them aren't really willing to work. To the degree to live up to that."*<sup>1</sup>

--Branford Marsalis

At the time of his statement, Marsalis had been a music faculty member at Michigan State University, San Francisco State University, and North Carolina Central University. The roughly 18- to 25-year-old students he had likely been teaching (beginning in 1996) were most likely born in the mid-1980s through the early 2000s. These students were often referred to as Millennials. Although the note that "like the generation before them" must refer to members of Generation X as well, Twenge (2009) combines these into a single caste called "Generation Me" born after 1970 and, more likely, 1980, whose central feature is a cynosure on the individual: Themselves.

### **A Roadmap for this Paper**

Before moving to examinations of college music teaching and learning, the broader issues of generation-wide fragility, based on possible dependencies on affirmations and self-esteem are explored. Marsalis, did, after all, indict two generations of U.S. students. More refined applications follow, leading to relevant factors of stress, stressors, personality attributes that may buffer individuals against stressors and anxiety, and finally to the construct of mental toughness, before introducing the current research.

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<sup>1</sup> Marsalis' comment is taken from the documentary movie *Before the Music Dies*. The relevant clip is available at <https://www.youtube.com/watch?v=5rz2jRHA9fo>

### **An Isolated Phenomenon?**

It is not appropriate to extrapolate a single comment from an individual as though it represents the view of the masses, and certainly not to the level of a widespread phenomenon. But Marsalis' comment resonates amid other positions that take aim at today's young people. Both written by in-service educators, McCullough's (2014) *You are Not Special: And Other Encouragements* and Lahey's (2015) *The Gift of Failure* address the misalignment of students' self-perceptions and the real world. Levine's (2006) *The Price of Privilege: How Parental Pressure and Material Advantage are Creating a Generation of Disconnected and Unhappy Kids* and Twenge's (2014) *Generation Me-Revised and Updated: Why Today's Young Americans are More Confident, Assertive, Entitled--and More Miserable than Ever Before*, are authored by psychologists.

Speaking specifically about fragility of students, including those at the college level, Marano's (also a psychologist) (2008) *A Nation of Wimps: The High Cost of Invasive Parenting* states, "[c]ollege, it seems, is where the fragility of young people is making its greatest mark" (p. 3). Perhaps Marsalis was identifying more than a sparsely encountered phenomenon, located exclusively in his sphere of college-level jazz musicians.

### **The Sweet Sounds of Praise**

Proclivities of any kind are unlikely to suddenly appear at the moment a college student arrives on campus for freshman move-in. The kind of fragility and affirmation dependence supposedly at the root of this issue would have developed over many years. A look into childhood is appropriate. Dweck (2010) identifies a causal connection in childhood. Influential practices of parents and teachers in the quest for self-esteem (p. 55).

**Self-esteem in school.** Defined as “judgements of self-worth” (Bandura, 1997, p. 11) self-esteem has captured the attention of society to such a degree that it defined a social movement in the United States (Baumeister, Campbell, Krueger, & Vohs, 2003; Dweck, 2010). Championed by key figures such as Nathaniel Branden, who has attributed ills like depression, fear of intimacy, fear of success, spousal abuse, and anxiety (among others) to low self-esteem (Branden, 1984), the movement appears to have taken off in the 1980s and impacted education and psychology resoundingly. In the more narrowly defined context of schooling, the subject is often *academic* self-esteem (Marsh & O'Mara, 2008) where the judgements may not pertain to the entire person, but to attributes that account for successes and failures in school.

Self-esteem, by itself, is not a predictor of success (Mone, Baker & Jeffries, 1995). Muller and Dweck (1998) found that administration of praise for intelligence versus praise for hard work, led children to believe in a fixed conception of intelligence. Following the praise, they indicated a preference for easier activities to avoid damaging their status as intelligent.

The applications to young children seem unimpeachable. But it is strange that the neoteny would accompany a person into their adolescence, much less beyond their secondary school experiences. Yet, this apparently occurs. Blackwell, Trzesniewski, and Dweck (2007) found that 12- and 13-year-olds (7<sup>th</sup> graders) who adopted a malleable conception of their intelligence (i.e., intelligence can be changed and improved) increased academic performance over two years, while those with a fixed conception of intelligence showed flat academic performance over the same time.

Involving students in high school, Bachman and O'Malley (1977) examined the data of more than 1,600 10<sup>th</sup> graders collected over 8 years, finding that self-esteem did not account for successful school (academic) performance. And while their results indicated that self-esteem,

measured in high school, ultimately predicted eventual educational accomplishment in college, path analyses indicated that the relationship between the two factors was .072. Similarly, low correlations between self-esteem and academic achievement were found in Pottebaum, Keith and Ehly (1986) whose study of more than 23,000 high school students from 10<sup>th</sup> to 12<sup>th</sup> grades indicated that 10<sup>th</sup> grade self-esteem predicted 12<sup>th</sup> grade scholastic achievement ( $r = .11$ ), and 10<sup>th</sup> grade scholastic achievement predicted 12<sup>th</sup> grade self-esteem ( $r = .12$ ). Other studies with similarly large samples and low to no support for self-esteem as a causal agent in successes include Maruyama, Rubin and Kingsbury (1981) and Rosenberg, Schooler and Schoenbach (1989).

**Parents.** Dweck (2010) indicates that the agents of the self-esteem movement are both parents and teachers. The adults in the lives of the children who impart and influence conceptions of self-esteem. Marano (2008) indicates that the actions of parents account for “endless adolescence” as well as mental health problems (p. 3). Nevertheless, Millennials appear to want their parents to be involved in their lives well into adulthood (Rainer & Rainer, 2011).

**Parent involvement.** The Elementary and Secondary Education Act of 1965 included language regarding the participation of parents in “regular, two-way, and meaningful communication involving student academic learning and other school related activities...” (§ 9101). Since that time, parent roles in schools have understandably increased, and, perhaps beneficially. For example, Pomerantz, Moorman and Litwack (2007) found that the greater the level of parent involvement, the more positive was the student’s academic self-concept. The reverse was also true. And, students who had higher self-concept were more likely to take responsibility for their academic outcomes, rather than attributing outcomes to uncontrollable factors.

*In academic achievement.* The active participation of parents in the lives and education of their children has also been associated with academic achievement. But researchers have determined that the relationship is likely indirect. It does not seem to provide students with greater skills, but with higher motivation, which results in the acquisition of skills and better performance (Gonzalez-Pienda et al., 2002; Pomerantz et al., 2007). Students likely experience enhanced educational outcomes because they are more intrinsically motivated to succeed. Bogenschneider (1997) found that the parent involvement of both mothers and fathers was beneficial for sons and daughters without significant gender differences. Significant (but very low) positive correlations between .14-.25 were shown between parent involvement and grade point average. Alternatively, Crosnoe (2001) examined the data of over 6,000 students in grades 7 through 12. An inverse relationship appeared between high academic performance and parental interactions with teachers. The higher the academic success, the lower the frequency of parent contact with teachers, suggesting that greater academic performance may diminish the perceived need for parent involvement, at least, in interactions with teachers.

Within music learning, Davidson, Howe, Moore, and Sloboda (1996) found that after adolescence, the highest achieving 14- to 18-year-old student musicians—who were also the most heavily supported by parents—were able to maintain intrinsic desires to practice, even while the involvement of their parents diminished. The same was not true of lower achieving music students whose parents had not supported them as heavily at the same time (through about age 12) (Davidson, Moore, Sloboda, & Howe, 1998). Additional authors have explored parent involvement in music learning, noting similar findings (e.g., Creech, 2010; Dell, Rinnert, Yap, Keith, Zdzinski, Gumm, Orzolek, Cooper, & Russell, 2014; Zdzinski, 1992; 1996; 2013).

## Post-Secondary Level Applied Music Studies

As a means of preparing students for professional practice, the development of artistry and musicianship is central to higher education models (Clark, 1986). The foremost mechanism appears to be individualized study with music experts. Kennell (2002) frames the practice of what has come to be known as “applied” music instruction—one-on-one instructional sessions between expert teacher and student—as an interface between an individual aspiring to join a professional community (the student) and a member of that community (the teacher). At least with respect to the college level, it immediately becomes obvious that the relationship is characterized by more than a transactional arrangement. The teacher, the expert, serves as a type of gatekeeper—what Kennell calls a “mediator” (p. 254)—between the professional community and the student.

Kennell’s descriptors probably call to mind those students who ultimately seek careers as music performers. But not every student who participates in applied music instruction seeks a career in music performance. Students seeking degrees in music education, for example, take applied music lessons as a portion of their coursework (Hawk-Volzer, 2002). Even for baccalaureate degrees in music education, the National Association of Schools of Music Handbook (2018-2019) lists “functional performance” skills as essential competencies (p. 118).

**Musical expertise.** A number of researchers have examined the development of musicians as they strive for optimal development. Findings have included that practice in isolated contexts (i.e., alone) facilitates a type of concentrated practice called *deliberate practice* (Ericson, 2006; Ericsson, Krampe, & Tesch-Römer, 1993) marked by efforts to improve skills that are beyond one’s ability (O’Neill, 2011). Deliberate practice is no infrequent requirement. Thousands of hours of deliberate practice over many years have been shown to be typical of



expert musicians (Ericsson & Charness, 1994; Ericsson, Tesch-Römer, & Krampe, 1990; Jørgensen, 1997; Lehman, 1997, Sosniak, 1985).

**Attributes of the lesson.** Such things as technical facility, expressivity, aural discrimination, improvisation, as well as problem solving and practice strategies have been addressed in lessons (Barry, 2007; Schmidt, 1989). The role of the applied lesson, and the teacher, in the development of expertise is obviously substantial. Lessons generally occur for between a half-hour to one hour each week of the semester (Conway, 2009, p. 137).

**Fora for criticism.** The dynamics of the applied lesson environment lend themselves to an array of feedback from the teacher. The potential for criticism is obvious. The teacher's role as arbiter and error detector in the lesson environment supersedes the self-monitoring error detection mechanism of the student. Duke and Chapman (2011) provided a list of observation in the one-on-one lesson environment including such things as:

“the teachers demand a consistent standard of sound quality from their students” (p. 32);

“the teachers clearly remember the students' past lessons and frequently draw comparisons between past and present, pointing out both positive and negative differences” (p. 33);

“the music directs the lesson; errors in student performance elicit stops” (p. 34);

“any flaws in fundamental technique are immediately addressed; no performance trials with incorrect technique are allowed to continue” (p. 34) and,

“negative feedback is clear, pointed, frequent, and directed at very specific aspects of students' performances especially the musical effects created” (p. 37).

These attributes do not elicit visions of an environment where the possibly fragile self-efficacy and/or self-esteem of the student is more important than the musical product. Implicit in these comments is that the student's singing and/or playing of music (and, by extension, preparation) is

unsatisfactory and possibly inadequate. If these aspects of private lesson instruction are common, some students may, indeed, not find the environment uplifting and affirming.

**The quest for approval.** External contingencies in domains that are deemed to be important to the individual constitute a basis for self-esteem. People with high need for approval have demonstrated levels of self-esteem based on, or heavily influenced by, their beliefs about how others see them (Shrauger & Schoenman, 1979; Wylie, 1979). In such instances, similar to Kamins and Dweck's (1999) conception of contingent self-worth, a form of contingent self-esteem emerges. Contingent self-esteem has been associated with tension and anxiety within specific domains (Deci & Ryan, 2000).

**Identity.** Identity likely plays an important role in whatever phenomena might be involved in sensitivities to criticism and expectations and needs for affirmations. Feedback from significant others begins to play a critical role in the development of musician identity from early adolescence. Manturzewska (1990) indicated that artistic personality emerges between 12 and 20 years of age. The development, she believed, is heavily dependent upon a "master-student" relationship in which the student functions as a type of disciple of the teacher. This is precisely how Kennell (2002) characterized the college music studio teacher-student relationship by calling it an "expert-novice dyad" (p. 243).

### **Stress and Stressors**

Short for "distress" *stress* usually implicates psychological factors. These include "a physical, chemical, or emotional factor (as trauma, histamine, or fear) to which an individual fails to make a satisfactory adaptation, and which causes physiologic tensions that may be a contributory cause of disease" (Gove, 1993). Stress occurs when environmental demands exceed individual supply, illuminating personal deficits, or under personal frustration, when an individual's resources are unable to find environmental outlets (French, Rogers, & Cobb, 1974).

In the social sciences, stress is usually viewed through an interactionist lens (e.g., Neufeld, 1982) primarily dependent upon the perception of the individual and events in one's life context.

**Appraisal.** How does an individual distinguish between conditions that may or even certainly will be damaging and ones that will not? Threat and non-threat reactions are precipitated by cues. Stimuli that indicate a likely future condition. These stimuli are examined in a cognitive process called appraisal (Folkman, Lazarus, & Dunkel-Schetter, 1986). The antecedent stimuli have been divided into two types. One of these involves the imminence of, and the relative power of, the potentially harmful condition and the individual's resources to manage or counter the condition. The second involves motive strength and pattern, as well as beliefs about interactions within the environment, the person's intellectual abilities, knowledge, and education (Lazarus, 1966). The appraisal leads to a determination about the stimulus and its status as a threat. The primary mechanism deals with the attributes of the potential threat itself, while the secondary mechanism deals with those processes and tactics that constitute successful adaptation to the threat, called *coping*.

In the context previously described, it is almost impossible to believe that teacher feedback, communications, or critiques, could be substantive contributors (not to mention sole causal factors) of stress. However, stress has been shown to include an array of experiences such as "ego threat," "guilt," and "threat of punishment" (Ekehammar & Magnusson, 1973; Hodges & Felling, 1970; Neufeld, 1972). Each of these is an experience not difficult to imagine in a setting such as college applied music studies. In particular, ego threat seems most probable due to the one-on-one setting.

**Stressors.** Dienstbier (1989) conceptualized a stressor as a situation appraised as harmful or threatening *by the individual*. So, like beauty, the magnitude and severity of a stressor is largely in the eye of the beholder. In this case, stressors are proximal stimuli with specific

properties. The occurrence of the stressor is independent of the person who encounters it. Things such as underload and overload at work (Frankenhaeuser & Gardell, 1976), noise (Glass & Singer, 1972) and aspects of commuting in rush hour traffic (Novaco, Stokols, Campbell, & Stokols, 1979). These tend to be in the context of daily experiences prompting terms like “daily stressors” or “daily hassles” (DeLongis, Coyne, Dakof, Folkman, & Lazarus, 1982, p. 121) as opposed to major life events (e.g., job loss, life threatening illness, death of a parent, etc.) that constitute substantial adversities.

**Ego.** Ego threat has been identified as being among stressful experiences, and warrants some additional exploration. Ekehammar and Magnusson (1973) indicate that ego threat is defined by situations that involve the threat of the individual’s self-esteem (p. 176). Freud (1962) stated that the ego served purposes of self-preservation and adaptation by mediating among the instinct-driven (id), the superego, and the environment. If the balance among these three things is threatened, anxiety was thought to result.

**Anxiety and ego defenses.** Anxiety is defined as an emotional state including feelings such as worry, nervousness, and apprehension (American Psychiatric Association, 2013; Spielberger, 2010). *State* anxiety is a temporary form of anxiety that results in response to particular stimuli but is usually relieved once the stimuli abates (Cattell & Schneider, 1961). *Trait* anxiety, on the other hand, is a more stable propensity to routinely interpret situations as threatening (Spielberger & Sydeman, 1994). Spielberger and Reheiser (2009) indicated that feelings of inadequacy are often the basis of anxiety.

**Competition.** If feelings of inadequacy serve as a basis of anxiety, it is probably not difficult to imagine the many potential connections between ego and competition, competition and anxiety, and competition’s probable impact on the ego. But, instances of competition in applied music studies at the post-secondary level are not obvious. The applied music setting

usually takes the form of one teacher with one student. Direct comparison to others, such as where the teacher or student refers to other students, would likely be rare.

*Auditions and evaluations.* Competition may be more evident as an extension of applied music studies in auditions for ensembles within the university, for seating (i.e., first chair, second chair, etc.) and for vocal part and solo assignments within those ensembles, in obtaining scholarships and awards for musical performances, and in end-of-term performances for a grade, usually called “juries” (Conway & Hodgman, 2009, p. 58). Audition and evaluation environments usually involve only the performer and, possibly, a small committee of evaluators. In this way, the scenario mimics a testing environment where the student demonstrates her or his skills, just as would be the case on other forms of tests, to be compared with some external standard leading to a grade or placement or award. Austin (1991) referred to this as competition against standards.

*Studio classes and recitals.* Of a relatively few practical applications where obvious social comparison might be encountered, likely settings would include studio classes, where all students of a particular teacher come together to perform independently for the rest of the group, and convocations and recitals. In these situations, an environment emerges in that this is comparable to a classroom setting where students put their skills on display for each other. Ames and Ames (1984) examined motivation and, specifically, attribution in: 1) Ability-Evaluative (Competitive) Motivational Systems, 2) Task Mastery (Individualistic) Systems, and 3) Moral Responsibility (Cooperative) Systems. The research was conducted in a design where student participants experienced success *and* failure in each goal structure. The intent of the research was to determine what component of attribution (e.g., ability, effort, task difficulty, or luck) the students relied upon to explain their success or failure and how the explanations (attributions) compared. Results indicated that students in the Ability-Evaluative (Competitive) goal structure

attributed their successes to ability and, to a lesser extent, luck. In the Task Mastery (Individualistic) goal structure, students primarily attributed their successes to effort. Similar findings have been reported by Nicholls (1984), and Thorndike-Christ (2008).

### **Hardiness**

Situations are deemed threatening or harmful by way of the individual's appraisal process. But not every circumstance appraised as threatening or potentially harmful is viewed negatively. In some situations, such circumstances are appraised as challenging—a positive emotion—and some are appraised as stressful, which is a negative emotion (Dienstbier, 1989). A propensity to view potentially threatening or harmful circumstances as a challenge is the basis for *hardiness*.

Kobasa (1979) indicates that hardiness is a type of mitigating trait that tempers life stressors and an individual's responses to them. A determinant of perception of a situation, leading to a less threatening cognitive appraisal (Kobasa, Maddi, & Kahn, 1982). The trait is comprised of commitment, challenge, and control. Maddi and Kobasa (1984) stated that a hardy person “views potentially stressful situations as meaningful and interesting (commitment), sees change as a normal aspect of life rather than as a threat and views change as an opportunity for growth (challenge), and views stressors as changeable (control)” (p. 50).

**Commitment.** Relevant both to cognitive and action levels, commitment is a tendency of the individual to engage in whatever she is doing or encounters (Maddi, Hoover, & Kobasa, 1982; Leak & Williams, 1989). Committed individuals possess a sense of purpose that lends itself to interpretations of meaningfulness regarding the events, incidents, people, and circumstances of their environment. Beyond the level of cognitive appraisal, the actions associated with commitment are as they sound. The committed individual is invested in the

social contexts in which they are embedded, as well as invested in themselves. They are not likely to withdraw (give up) easily, even under pressure.

**Challenge.** A disposition toward challenge is marked by a view of change as a necessary and inevitable facet of growth (Csikszentmihalyi, 1975; Maddi, Propst, & Feldinger, 1965). This disposition buffers the individual against the perception of stressfulness of events by enhancing their stimulating aspects and diminishing threatening ones. Because they are changes requiring readjustment they occur to the individual opportunities for transformative growth.

**Control.** Control is a disposition toward perceiving oneself as possessing the ability to influence circumstances through the exercise of skill, knowledge, imagination, and choice (Averill, 1973; Phares, 1976). The individual is able to devise and select appropriate strategies to handle stressful situations.

**Control and coping.** The sense of control leads to actions that serve to transform the individual's perceptions of events as integral pieces of an overall life plan (Averill, 1973). The effect is enhanced stress resistance since events are more likely to be experienced as an outgrowth of one's actions and not as unexpected, overwhelming, or unmanageable experiences. It would be difficult to more succinctly represent Dweck's (1986) conception of *incremental theorists* who possess flexible beliefs about ability, viewed as changeable through effort.

If the importance of beliefs in an internal locus of control, leading to flexible, malleable, changeable conceptions, and the ability to avoid conceptions of fixed, rigid circumstances that impart helplessness, sounds familiar, these things have previously made an appearance in relation to "contingent self-worth" (Kamins & Dweck, 1999) and conceptions of learned helplessness (Burhans & Dweck, 1995) covered earlier. Dweck's conception of growth mindset calls for these same dispositions and internal locus of control in establishing the beliefs that skills, traits, performances and circumstances can be improved through effort (Dweck, 2008).

## **Mental Toughness**

Each of the three factors present in hardiness (commitment, challenge, and control) have been found to contribute to mental toughness. Loehr (1995) conceptualized mental toughness as a four-factor trait, including: flexibility, responsiveness, strength, and resiliency<sup>2</sup> and defined it as “the ability to consistently perform toward the upper range of one’s talent and skill regardless of competitive circumstances.” Critically, the context of *performance* now joined the constellation of contexts, giving some theoretical credibility to performance-based activities. The most obvious of these was sport and sport psychology (Bull, Shambrook, James, & Brooks, 2005; Jones, Hanton, & Connaughton, 2007). But mental toughness has also been examined in education, where parallels have been drawn between aspects of sport training and performance, and academic training and performance (Crust, Clough, Earle, Nabb, & Clough, 2012). Although various definitions of mental toughness had been explored as being comprised of such things as resilience, self-belief, concentration (focus), confidence, commitment, and an ability to handle—and even thrive under—pressure (Crust & Swan, 2011). Clough, Earle, and Sewell’s (2002) conceptualization of mental toughness viewed the construct as being comprised of (just like hardiness) challenge, commitment, and control, in addition to a fourth factor, *confidence*.

### **The Present Study**

The present study had two principal goals. The first was to examine the appropriateness in the use of a measure of mental toughness with post-secondary applied music teachers and their students. The second goal was to examine possible sensitivities to teacher feedback, commentary, expectations, and other attributes of applied music studies in college music

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<sup>2</sup> In this case, resiliency was used to mean a general ability to bounce back from disappointments, setbacks, and errors.



programs. Relationships between possible student sensitivities and their mental toughness scores were of interest as well.

### **Research Questions**

The research set out to address the following questions:

- 1) To what extent the MTQ18 is an informative tool for assessing mental toughness in music studio teachers and their students?
- 2) To what extent do studio members (students) perceive that the criticism they receive from their studio teachers is appropriately or overly harsh, and if such perception exists, how is it related to mental toughness?
- 3) To what extent do studio members with higher levels of mental toughness perceive their studio teachers as less critical?
- 4) To what extent do studio members demonstrate attributes of hyper-sensitivity that might cast their experiences with normal amounts of criticism as damaging or hurtful? What are these attributes, and how are they related to mental toughness?

### **Method**

#### **Participants**

Initially, 100 studio teachers' email addresses were obtained by visiting their university websites and music web pages. They were contacted by email asking for their participation. Six college level music studio teachers and 31 music students from universities in Alabama, Illinois, Indiana, and Ohio, participated in this study. Studio teacher participants' ages ranged from 27 to 54 years ( $M = 43.5$ ,  $SD = 10.37$ , median = 44.5). Teacher participants were comprised exclusively of instrumentalists including: oboe/English horn, saxophone, flute, percussion, and trumpet and indicated an average of between 6 and 10 years of professional experience as a studio teacher. Three of the teacher participants held doctoral degrees, while 2 indicated having

achieved a master’s degree plus additional graduate studies, and 1 had achieved a master’s degree. Table 1 includes descriptive characteristics of the studio teacher participants.

The college level studio members (student participants) ( $n = 31$ ) were the students of the six studio teachers and played the same instruments as the teacher participants. Studio members’ ages ranged from 18 to 37 ( $M = 29.10$ ,  $SD = 3.43$ , median = 19) with between 2 – 3 years (average) of private study with their current studio teachers.

Table 1. *Descriptive Characteristics of Studio Teacher Participants (n = 6)*

Variable	#	Instrument	$M (SD)$	Range
State				
Alabama	1	Oboe/Eng. Horn	$\frac{3}{4}$	$\frac{3}{4}$
Illinois	3	Flute (1)	$\frac{3}{4}$	$\frac{3}{4}$
		Trumpet (1)	$\frac{3}{4}$	$\frac{3}{4}$
		Saxophone (1)	$\frac{3}{4}$	$\frac{3}{4}$
Indiana	1	Saxophone	$\frac{3}{4}$	$\frac{3}{4}$
Ohio	1	Percussion	$\frac{3}{4}$	$\frac{3}{4}$
Age			43.5 (10.37)	27-54
Professional Experience				
< 1 year	3	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
11 – 15 years	1	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
16 – 20 years	1	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
20+ years	1	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
Tenure Status				
Yes	2	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
No	4	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
Education				
Master’s Degree	3	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
Doctorate	3	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
MTQ18		$\frac{3}{4}$	70.67 (4.76)	65-77

*Note.* MTQ18 = Mental Toughness Questionnaire (18-item) includes a possible range of scores from 18 to 90.

The second phase of the participant selection asked the studio teachers to select their studio members for participation in this study. This only required forwarding the hyperlink to the student version of the questionnaire and the Mental Toughness measure. The hyperlink for the

student participants was included so the teacher was able to forward the initial email to as many of his/her students as was desired. Or, copy and paste the link into a new email. There was no limit to how many students each studio teacher could nominate. The studio teachers recruited from 3 to 7 students from each studio. Table 2 provides descriptive characteristics of the 31 studio member participants.

Table 2. *Descriptive Characteristics of Studio Member Participants (n = 31)*

Variable	#	Instrument	<i>M (SD)</i>	Range
State				
Alabama	5	Oboe/Eng. Horn	$\frac{3}{4}$	$\frac{3}{4}$
Illinois	15	Flute (3)	$\frac{3}{4}$	$\frac{3}{4}$
		Trumpet (7)	$\frac{3}{4}$	$\frac{3}{4}$
		Saxophone (5)	$\frac{3}{4}$	$\frac{3}{4}$
Indiana	5	Saxophone	$\frac{3}{4}$	$\frac{3}{4}$
Ohio	6	Percussion	$\frac{3}{4}$	$\frac{3}{4}$
Age		$\frac{3}{4}$	29.10 (3.43)	18-37
Years in current studio				
1 – 2 years	17	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
2 – 3 years	7	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
3 – 4 years	5	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
4 – 5 years	1	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
5+ years	1	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
Education				
1 <sup>st</sup> year undergraduate	11	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
2 <sup>nd</sup> year undergraduate	13	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
3 <sup>rd</sup> year undergraduate	2	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
4 <sup>th</sup> year undergraduate	3	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
Graduate Studies	2	$\frac{3}{4}$	$\frac{3}{4}$	$\frac{3}{4}$
MTQ18		$\frac{3}{4}$	56.66 (6.88)	50-67

*Note.* MTQ18 = Mental Toughness Questionnaire (18-item) includes a possible range of scores from 18 to 90.

## Materials

**Pilot questionnaires.** The questionnaires, created in NoviSurvey™ differed depending on the type (studio teacher or student) of participant. Both questionnaire types were beta tested

by 28 music teachers who had been college level studio members (students) at some point, and who had taught independent instrumental or vocal music lessons, in some capacity. Along with completing trial versions of the questionnaires themselves, to ensure that the electronic mechanism functioned properly, they provided feedback regarding the content of the questions, their clarity, and the general user-friendliness of the questionnaires.

**Studio teacher questionnaires.** Studio teachers were asked demographic questions about their age, instrument/voice, highest level of education, status as a tenured or non-tenured faculty member, and number of years as a studio teacher at the college level. The researcher's independent reviews of related literature generated a set of questionnaire items that were grouped under 4 main sections: 1) expectations – where teachers responded to statements such as "In lessons and other individual performances (i.e., juries, recitals) my students perform, musically, at or above my expectations." 2) Identity/Role Modeling – including "To what extent do you believe your students develop an identity as a member of your studio?" 3) Feedback – including "I have to tell my students when their preparation is inadequate." And, 4) Sensitivity – including "I feel that my students are overly sensitive about the feedback I give them." These questions were almost all answered on 5-item Likert-type scale ranging from 1 (*never*) to 5 (*very often*) or 1 (*not at all like me*) to 5 (*very much like me*). Some items were reverse-scored, with responses presented in reverse order, to reduce bias (Nardi, 2014). Nearly every question included a comment box for free response, in addition to the selection mechanism (i.e., checkboxes). The design of the questionnaire and its content is not derived from the work of any other specific study or researcher. The Studio Teacher Questionnaire is included in Appendix A.

Although it was not intended to be a self-report instrument with functioning sub-scales and an overall level of internal consistency, each of the sub-sections contained multiple questions using the same 5-point Likert-type scale and were able to be analyzed for internal consistency.

Flanagan's (1937) formula, like the more common Spearman-Brown formula, requires split-halves, but does not assume equal standard deviations. Flanagan's formula produced coefficients from .62 to .74 for the studio teacher questionnaire.

**Studio member questionnaires.** Beyond demographics, student questionnaires (see Appendix B) included the same sub-sections as the studio teacher questionnaires, with slightly modified questions. Student questions to sensitivity, for example, included such items as - "I feel that my teacher is overly critical in the feedback he/she gives me." and "Have you received feedback about your playing that has hurt your feelings?" These questions included the same 5-item Likert-type range from 1 (*not at all like me*) to 5 (*very much like me*) and 1 (*never*) to 5 (*very often*). Flanagan's formula was utilized in the sub-sections here as well, producing coefficients from .67 to .82.

**MTQ18.** The Mental Toughness Questionnaire 18 (Clough, et al., 2002) (see Appendix C) is a self-report inventory containing 18 statements rated by the user on a Likert scale ranging from 1 (*strongly disagree*) to 5 (*strongly agree*). Example items include "I often wish my life was more predictable" and "I generally cope well with any problems that occur." The MTQ18 is a truncated adaptation of a longer, 48-item instrument called the MTQ48. The longer version has been deemed to be a valid and reliable measure of mental toughness (Crust & Clough, 2005; Nicholls, Polman, Levy, & Backhouse, 2008) and to have acceptable psychometric properties (Horsburgh, Schermer, Veselka, & Vernon, 2009). The MTQ18 is said to correlate strongly ( $r = .87$ ) with the MTQ48 (Clough *et al.*, 2002).

The MTQ18 is a measure of a general (overall) level of mental toughness and has been used to assess the relationship between sports injury rehabilitation and mental toughness (Levy, Polman, Clough, Marchant, & Earle, 2006). Levy and colleagues (2006) found that higher levels

of mental toughness were correlated with greater tolerance for pain. As of the time of this writing, the MTQ18 has not been used in the field of music education or music performance in the U.S. Only Mahoney, Gucciardi, Mallett, and Ntoumanis (2014) have reported use of the mental toughness measures with musicians. The circumstances of that study involved 18 student athletes, academics, and musical performers ( $M_{age} = 15.6$ ) in the U.K.

Measures of internal consistency and reliability for the MTQ18 are few. Levy and others (2006) reported Cronbach's alpha for the MTQ18 to be .65. In this study, Cronbach's alpha was determined to be .72.

The initial email seeking participation contained the hyperlink to the electronic questionnaire created specifically for the studio teachers, followed by the measure of mental toughness (MTQ18). These were combined into a single, continuous, electronic form. Both the teacher and student participants completed the MTQ18 via the online mechanism. Upon completion, total scores (maximum = 90) were automatically calculated for the participants who were able to view their score and an interpretation of the score. Higher scores indicated higher levels of mental toughness.

### **Preliminary Data Analysis**

The data were checked for accuracy and completeness. No datum was missing. The data naturally fit into groups of instrumentalists distinguished not only by the instruments they play, but also by the universities they attend, and the applied music studios to which they belong. This configuration produced 6 groups, including 1 teacher, and between 3 and 7 of the teachers' students. Essentially, this configuration included one group per studio, consisting of a teacher and his/her students. Comparisons of the mental toughness scores between the studio teacher and his/her students were not possible due to the low number of participants. But the possible grouping configurations lent themselves to one-way between-group ANOVAs to explore

differences in mental toughness scores. In one possible group configuration, the teacher was included among his/her students, with differences examined between the 6 groups. In a second grouping configuration, the teacher participants constituted their own group and were compared to the 6 student groups.

Descriptive statistics were evaluated with regard for the basic assumptions necessary for ANOVA. The skewness and kurtosis values (skewness  $\leq |0.43|$ , kurtosis  $\leq |1.82|$ ) were within acceptable limits (George & Mallery, 2010). Tukey HSD procedures were selected for post-hoc comparisons.

## **Results**

In the 6 group configuration, where teacher mental toughness scores were included in groups among their students, no differences were found across the groups  $F(5, 31) = .375, p > .05$ . In the 7 group configuration, however, where studio teachers constituted their own group, the independent between-groups ANOVA yielded a statistically significant effect  $F(6, 30) = 3.99, p < .01, \eta^2 = .326$ . Tukey adjusted post-hoc comparisons indicated that studio teachers' mental toughness scores differed significantly from 5 of the 6 student groups. Examinations of mean scores for the groups revealed that these differences were due to significantly higher mental toughness scores for the teacher group, versus the 5 student groups.

Table 3. Correlations of Questionnaire Items and Study Variables for Studio Teacher Participants (n = 6)

Items/ MTQ18	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Age																	
2. Experience	<b>.81*</b>																
3. Tenure	.78	<b>.85*</b>															
4. Education	.33	.21	.63														
5. Q. #8	.50	.64	.63	.40													
6. Q. #9	-.45	.12	-.17	-.43	-.11												
7. Q. #10	.78	.85*	<b>.74*</b>	.63	.63	-.17											
8. Q. #11	.43	.23	.36	.33	.34	.22	.08										
9. Q. #13	.05	-.08	-.37	-.70	-.70	.12	-.37	.12									
10. Q. #14	-.07	.43	.32	.20	.20	.76	.32	.27	-.23								
11. Q. #15	.76	<b>.97**</b>	.79	.22	.80	.11	.79	-.36	-.23	.40							
12. Q. #16	.54	.29	.04	-.55	.06	-.30	.02	.10	.63	-.55	.27						
13. Q. #18	.41	.68	.25	-.32	.63	.34	.25	-.64	.02	.32	.79	.43					
14. Q. #19	-.15	-.17	-.25	-.63	-.63	.17	-.25	.24	.73	-.32	-.31	.43	-.25				
15. Q. #20	-.45	.02	-.23	-.16	.31	.69	-.25	.16	-.36	.63	.15	-.43	.50	-.05			
16. Q. #21	.01	-.45	-.26	.33	.08	-.77	-.26	.44	-.29	-.58	-.33	.04	-.26	-.53	-.13		
17. Q. #22	.37	-.13	-.19	-.12	.06	-.77	-.19	.02	.22	-.80	-.06	.67	.09	-.10	-.39	.74	
18. MTQ18	-.69	-.37	-.51	-.12	-.17	.63	-.51	-.18	-.16	.58	-.29	-.61	.05	-.38	<b>.84*</b>	-.01	-.42

Note. Questionnaire items #12 and #17 both asked about role modeling and identity. Neither question was significantly correlated with other items or the MTQ18. Both were removed from the correlation matrix. MTQ18 = Mental Toughness Questionnaire (18-item).

\*  $p < .05$  \*\*  $p < .01$



Teachers' MTQ18 scores revealed only one significant correlation with questionnaire items. Studio teachers who answered question 20 – “Do you believe that your students' sensitivities to criticism are increasing, decreasing, or about the same as in past years?” with responses that indicated a perception of increasing sensitivities, tended to have higher scores on the MTQ18 ( $r = .84, p < .05$ ). Table 3 presents a correlation matrix for the studio teacher participants.

A number of correlations of interest appeared among the students' mental toughness scores, and questionnaire items. Pearson Product-Moment correlations and point-biserial correlations were calculated for responses on the student questionnaire and the MTQ18. Student's mental toughness scores were significantly related to their responses on question 15, which stated - “I feel that my teacher is overly critical in the feedback that he/she gives me” ( $r = -.44, p < .05$ ) indicating that those students with higher mental toughness scores responded to this question with lower levels of agreement about their teacher's overly critical feedback. Similar relationships appeared between student mental toughness scores and responses on question 20 – “Does going to, and playing in, your lessons make you anxious?” ( $r = -.46, p < .01$ ) indicating that higher mental toughness scores were associated with lower indications of anxiety in lessons, and question 21 – “Have you received feedback about your playing that has hurt your feelings?” ( $r = -.66, p < .001$ ) indicating that students with higher mental toughness scores reported lower levels of instances of hurt feelings regarding their musicianship.

Some additional correlations of interest were found as well. First, among the student groups, age was significantly correlated with parent involvement ( $r = -.55, p < .01$ ) indicating that those students who were older reported lower levels of parent involvement in their college experiences. On a related subject, students who reported higher levels of parental involvement (younger college students, in this study, as previously stated) also indicated higher levels of

agreement to question 15, which stated - “I feel that my teacher is overly critical in the feedback that he/she gives me” ( $r = .45, p < .01$ ). Rounding out the parent involvement correlations, students who indicated higher levels of parental involvement in their college experiences also tended to indicate higher levels of anxiety via question 20 (“Does going to, and playing in, your lessons make you anxious?”) ( $r = .40, p < .05$ ).

Three additional, possibly interesting, correlations were found. In relation to question 19 “Do you view your private lesson studio as competitive?” students who indicated that they perceived higher levels of competition in their studio also indicated higher levels of parental involvement in their college experiences ( $r = .44, p < .05$ ). Those students who indicated higher levels of perceived competitiveness also indicated more frequent incidences of hurt feelings following feedback about their playing ( $r = .43, p < .05$ ). Finally, those students who indicated higher levels of anxiety in their lessons, also reported more frequent incidences of hurt feelings after feedback about their playing ( $r = .60, p < .001$ ). Table 4 lists the correlations of the questionnaire items and the MTQ18 for the 31 studio member participants.

Table 4. *Correlations of Questionnaire Items and Study Variables for Studio Member Participants (n = 31)*

Items/ MTQ18	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	
1. Age																				
2. Experience	.74																			
3. Education	.55	<b>.75*</b>																		
4. Q. #7	.37	.63	.47																	
5. Q. #8	.67	.40	.18	.09																
6. Q. #9	.32	.23	-.10	-.07	-.25															
7. Q. #10	.45	.34	.31	.20	.76	.20														
8. Q. #11	-.22	.31	.70	.02	-.35	.31	-.45													
9. Q. #12	.32	.67	.01	-.45	.09	.23	.40	-.02												
10. Q. #13	.18	-.22	.23	.10	.45	.34	-.18	.28	.31											
11. Q. #14	-.09	.65	.56	.04	.26	.18	.23	.55	-.22	.23										
12. Q. #15	.04	.70	.18	.35	.34	.20	.46	.18	.18	.20	-.09									
13. Q. #16	.31	.29	.55	.40	.38	.20	.10	.37	.29	.34	.27	-.19								
14. Q. #17	.44	.24	.23	.45	.40	.42	.33	.32	-.39	.25	-.26	.38	.09							
15. Q. #18	<b>-.55**</b>	-.37	-.39	-.45	.34	.20	.25	.24	-.08	.31	.69	<b>.45**</b>	-.21	.34						
16. Q. #19	.18	-.44	.24	-.08	-.19	.65	-.25	.16	.31	.45	-.26	<b>.46**</b>	-.34	.15	<b>.44*</b>					
17. Q. #20	.10	.13	.20	.45	.25	.31	.25	.02	.25	.40	.15	<b>.40*</b>	.14	-.15	.10	.02				
18. Q. #21	-.04	.20	.43	.47	.23	.09	-.61	.44	-.22	.26	-.30	.31	-.24	.50	.16	<b>.43*</b>	<b>.60***</b>			
19. Q. #22	-.22	-.18	.30	-.18	.08	.10	-.20	.34	.39	.23	-.09	.60	.09	.17	-.30	.70	.23	.34		
20. MTQ18	.01	-.30	-.12	.10	-.27	.23	-.32	-.18	-.14	.31	-.20	<b>-.44*</b>	-.02	-.23	-.34	-.27	<b>-.46**</b>	-.31	<b>-.66***</b>	

Note. MTQ18 = Mental Toughness Questionnaire (18-item) \*  $p < .05$  \*\*  $p < .01$  \*\*\*  $p < .001$

## **Limitations**

Two limitations are important to note. First, the low level of participants, especially of the studio teachers, presented challenges in terms of statistical calculations. The recruitment of participants in this study had to be augmented and expanded to obtain even the few who finally chose to participate. This may be attributable to a number of factors, but two of these are worthy of mention. The teacher participants were initially contacted in early to mid-April and a second round in early May, 2019. This approach was deliberately selected so that participants would be finished, or nearly so, with their academic year. In this way, teacher and student participants would not have to add this questionnaire to already full task lists. This timing may have been less than ideal, however. Studio teachers were receiving their requests to participate at almost the same time they were evaluating student juries, recitals, and entering end of year grade submissions. Second, one enticement to participate for studio teachers was that in the event that 10 or more of their students chose to participate, the studio teacher would have been eligible to receive the average mental toughness scores of their students. However, the utility of this feature has an obvious drawback. By the time studio teachers would have received these average mental toughness scores (by August, 2019) the constitution of their studios would have changed. They would have been looking at mental toughness scores from last year's students in the subsequent academic year. Perhaps this was not enticing enough.

An additional challenge relates to one of the reasons the study was pursued. Aside from this study, mental toughness has yet to make its foray into the post-secondary music world in the U.S. This is also true of mental toughness in general. So, a widespread concept of mental toughness has yet to take hold. Contrast this with the concept of grit, popularized by Duckworth's (2016) book on the subject, or Dweck's (2008) concept of growth mindset. By

comparison, mental toughness is an unknown subject. The lack of understanding about the subject may have created an aversion to participating.

### **Discussion**

Despite the small number of participants in the study, some discussion-worthy aspects of this research exist. First, one of the most important goals of the study was to use the MTQ18 with post-secondary music teachers and students, merely to examine aspects of its usability. The first research question asked – “To what extent [is] the MTQ18 an informative tool for assessing mental toughness in music studio teachers and their students?” The question appears to have been answered, although not on a grand scale. The significantly higher mental toughness scores of the studio teacher group ( $M = 70.67$ ,  $SD = 4.76$ ) versus the students as a complete group ( $M = 56.66$ ,  $SD = 6.88$ ), and 5 of the 6 smaller groups of students, is logical. The teachers are more proficient performers on their instruments with higher levels of education and richer musical and performing experiences (as well as life experience in general) to formulate bases for their self-perceptions. As they completed the MTQ18, it is likely that at least some recollections of past music learning and performing experiences came to mind. No doubt some of these were successful experiences leading to greater self-perceptions of challenge and control. The students, on the other hand, probably do not have the same depth of experiences to inform their self-perceptions.

Second, a main concern of the study was to investigate whether, or the extent to which, current college level applied music students might be prone to sensitivities that could cause them to interpret rigorous expectations and critical commentary of and by their teachers as overly harsh or negative. The second question was stated as – “To what extent do studio members (students) perceive that the criticism they receive from their studio teachers is appropriately or overly harsh, and if such perception exists, how is it related to mental toughness?” Indicia of this

kind of potential hyper-sensitivity was speculated to include such things as anxiety in applied music lessons, a propensity to have hurt feelings following feedback about music performances, and even the presence of their parents in their college experiences. With respect to the correlations that were found here, studio teachers may do well to tread lightly around younger studio members with higher levels of parent involvement. Also, of particular interest was the sole, but rather strong, correlation between the studio teachers' MTQ18 scores and their perceptions of their students' increasing levels of sensitivities reported in question 20. Question 20 asked – “Do you believe that your students' sensitivities to criticism are increasing, decreasing, or about the same as in past years?” Studio teachers with higher mental toughness scores indicated higher levels of increasing student sensitivities ( $r = .84, p < .05$ ). Possible reasons for this are obscure, but results suggest that studio teachers who have high mental toughness scores may be less likely to interpret their feedback as overly harsh or critical because it does not seem overly harsh or critical *to them*. That is, the studio teacher—putting herself in the place of the student—may believe that the critical feedback would not be perceived as overly harsh were she to receive it. But even this possible explanation does not account for the phenomenon of *increase* in sensitivity perceived by the studio teachers. Additional study is needed to examine this perception.

The 3<sup>rd</sup> research question sought to examine relationships between higher levels of mental toughness in studio members, and their possibly lower perceptions of overly harsh or critical studio teacher feedback. Put more simply - was it possible that higher levels of mental toughness in studio members might act as a buffer to harsh feedback from teachers? The results here seem to indicate that this may be the case. Again, students' answers to question 15 - “I feel that my teacher is overly critical in the feedback that he/she gives me” and question 20 - “Does going to, and playing in, your lessons make you anxious?” were both negatively correlated with

studio members' MTQ18 scores. Higher mental toughness scores were related to lower reports of overly critical teacher feedback, anxiety, and hurt feelings. Of course, it could be that studio teachers (of the studio members with higher MTQ18 scores) were, in fact, less harsh and critical.

The 4<sup>th</sup> research question focused on potential attributes of hyper-sensitivity in the studio member participants. Question 17 – “I have made a complaint with a college and/or university administrator(s) due to a teacher’s overly critical feedback.” and question 21 - “Have you received feedback about your playing that has hurt your feelings?” were particularly relevant to this question. Studio member responses to the two questions showed a correlation of  $r = .50$ , but it was not significant. Question 17, regarding making a complaint to an administrator, was not significantly correlated with studio members' MTQ18 scores either. Apparently making a complaint to an administrator was not an attribute of hyper-sensitivity among these studio members. One studio member commented, “Who would do this?” suggesting that taking such an action seemed outside of the realm of justifiability to him/her. Question 21, regarding hurt feelings, however, revealed one of the strongest correlations in the study ( $r = -.66, p < .001$ ) with regard to MTQ18 scores. Hurt feelings, in general, are not a logical attribute of hyper-sensitivity. To construe it as such, at least one assumption must be accepted regarding the studio teacher, other university music faculty members, and the studio members' peers. That is, that these people do not provide feedback or commentary that is *obviously* demeaning and overly harsh. This seems like a tenable assumption. It is difficult to imagine a university studio music environment where feedback is so clearly demeaning that it cannot be interpreted as constructive criticism. The studio member has to have some part in construing the feedback this way. And when he does, a level of frailty (hyper-sensitivity) is revealed. Here, studio members' higher mental toughness scores were associated with fewer instances of hurt feelings regarding their musicianship.

### **Recommendations for Further Study**

The most obvious recommendation for further research would be a study of similar design with more participants. A more practical approach to timing solicitation of participants might be at the beginning of an academic year when work levels are relatively low, and feedback for the teacher participants could be applicable to that year's students. An additional area of inquiry that seems well-suited to use of the mental toughness measures is one that explores relationships between mental toughness and performance achievement and possibly grades in the applied music studio, essentially pursuing information as to whether more mentally tough music students truly perform better as musicians.



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# Appendix A

## Feedback, Critique, and Critical Commentary - Studio Teacher

Thank you for taking this survey. Your responses are very important to this study. Please complete the following 22 questions.

**1. State**  
*Please select the state where you currently work as a college level studio teacher.*

**Comments**

**2. Voice**  
*Please select the voice part(s) you instruct as a college level studio teacher. (Select all that apply.)*

Not applicable

Soprano     Alto     Bass

Mezzo Soprano     Tenor     Other

**Comments**

**3. Instrument(s)**  
*Please select the instrument(s) you instruct as a college level studio teacher. (Select all that apply.)*

Not applicable

Flute/Piccolo     Trumpet/Cornet     Tuba     Cello

Clarinet     Horn     Piano     Bass

Oboe/English Horn     Trombone     Violin     Guitar

Bassoon     Baritone/Euph     Viola     Other

**Comments**

**4. Age**  
*Please enter your age (in years) in the box below.*

**5. Tenure**  
*Are you a tenured faculty member at your college/university?*

Yes

No

**Other comments?**

**6. Years of professional experience**  
*Please select the option that corresponds to the number of years you have practiced as a college level studio teacher.*

less than 1 year

1 - 5 years

6 - 10 years

11 - 15 years

16 - 20 years

more than 20 years

**7. Education level**  
*Please indicate your level of education.*

Bachelor's Degree

Bachelor's Degree plus graduate studies

Master's Degree

Master's Degree plus graduate studies

Doctorate

Other

Other? Please explain.

**8. Expectations**  
*"In lessons and other individual performances (i.e., juries, recitals) my students perform, musically, at or above my expectations."*

Never  Seldom  Sometimes  Often  Very often

Other comments?

**9. Student preparation**  
*"I get frustrated when my students come to lessons under-prepared." (i.e., Capable of playing/singing the material, but have not dedicated adequate practice.)*

Never  Seldom  Sometimes  Often  Very often

Comments

**10. Expectations: Practice and preparation**  
*"My students meet or exceed my expectations of preparation/practice."*

Never  Seldom  Sometimes  Often  Very often

Other comments?

**11. Student under-performance**  
*"I get frustrated when my students under-perform." (i.e., Playing/singing their lesson material below expectations.)*

Never  Seldom  Sometimes  Often  Very often

Comments

**12. Role modeling**  
*To what extent do you seek to have your students emulate your technical and musical skills?*

Almost exclusively

To a large extent

Moderately

Somewhat

Not at all

Other comments?

13. Feedback

*"I feel that I have to specifically tell my students when they under-perform."*

Not applicable

Very much like me

Much like me

Somewhat like me

A little like me

Not at all like me

Comments

14. Feedback: Grading

*"I have had to communicate with my students that they are in jeopardy of receiving a low grade in my studio class."*

Not applicable

I have  I have not  Other

Comments

15. Feedback

*"I have to tell my students when their preparation is inadequate."*

Not applicable

Very much like me

Much like me

Somewhat like me

A little like me

Not at all like me

Comments

16. Feedback: Student sensitivity

*"I feel that my students are overly sensitive about the feedback I give them."*

Very much  Much  Some  A little  Not at all

Comments

17. Role modeling

*To what extent do you believe your students develop an identity as a member of your studio? (Note: This can mean a musical identity, a professional identity, or a personal identity.)*

To a great extent

To a large extent

To a moderate extent

Somewhat

Not at all

Other comments?

**18. Feedback: Student sensitivity**

*"I have had to meet/confer with a college and/or university administrator(s) due to a student's complaints about my feedback."*

Not applicable

I have  I have not  Other

Comments

**19. Feedback: Grading**

*"I have had to meet/confer with a college and/or university administrator(s) due to a student's complaints about my grading."*

Not applicable

I have  I have not  Other

Comments

**20. Feedback: Critique and criticism**

*Do you believe that your students' sensitivities to criticism are increasing, decreasing, or about the same as in past years?*

Decreasing significantly

Decreasing slightly

About the same

Increasing slightly

Increasing significantly

**21. Competition**

*Do you view your studio as a competitive environment, or fostering a competitive atmosphere among your students?*

My studio is extremely competitive

My studio is very competitive

My studio is moderately competitive

My studio is not very competitive

My studio is not competitive at all

**22. Feedback: Anxiety**

*Do your students seem to encounter anxiety in their lessons?*

Very often

Often

Sometimes

Seldom

Never

Other comments?

## Appendix B

### Feedback, Critique, and Critical Commentary - Applied Music Student

Thank you for taking this survey. Your responses are very important. Please complete the following 22 questions. This should take between 5 and 10 minutes. Please add any commentary in the comment boxes. Your responses are anonymous.

**1. State**

Please select the state where you are currently enrolled as a college level applied music student.

Comments

**2. Voice**

Please select the voice part(s) you sing and study in applied lessons. (Select all that apply.)

Not applicable

Soprano     Alto     Bass

Mezzo Soprano     Tenor     Other

Comments

**3. Instrument(s)**

Please select the instrument(s) you play and study with an college level private instructor. (Select all that apply.)

Not applicable

Flute/Piccolo     Trumpet/Cornet     Tuba     Cello

Clarinet     Horn     Piano     Bass

Oboe/English Horn     Trombone     Violin     Guitar

Bassoon     Baritone/Euph     Viola     Other

Comments

**4. Age**

Please enter your age (in years) in the box below.

**5. Years of experience**

Please select the option that corresponds to the number of years you have studied with a private lesson instructor on your instrument or voice. (Please include all years of study, even outside of your current college/university.)

less than 1 year

1 - 2 years

2 - 3 years

3 - 4 years

4 - 5 years

more than 5 years

**6. Education level**

Please indicate your level of education.



- 1st year of undergraduate studies
- 2nd year of undergraduate studies
- 3rd year of undergraduate studies
- 4th year of undergraduate studies
- 5th year of undergraduate studies
- Graduate studies
- Other

Other? Please explain.

**7. Applied Lesson Teacher's Expectations**

*"In lessons and other individual performances (i.e., juries, recitals) I believe I perform, musically, at or above my teacher's expectations."*

- Never  Seldom  Sometimes  Often  Very often

Other comments?

**8. Student preparation**

*"My teacher gets frustrated when I come to lessons under-prepared." (i.e., Capable of playing/singing the material, but have not dedicated adequate practice.)*

- Never  Seldom  Sometimes  Often  Very often

Comments

**9. Expectations: Practice and preparation**

*"I believe I meet or exceed my lesson teacher's expectations of preparation/practice."*

- Never  Seldom  Sometimes  Often  Very often

Other comments?

**10. Student under-performance**

*"My lesson teacher gets frustrated when I under-perform." (i.e., Playing/singing lesson material below expectations.)*

- Never  Seldom  Sometimes  Often  Very often

Comments

**11. Role modeling**

*To what extent do you try to emulate your lesson teacher's technical and musical skills?*

- Almost exclusively
- To a large extent
- Moderately
- Somewhat
- Not at all

Other comments?

12. Feedback

*"My lesson teacher tells me when I under-perform."*

- Not applicable
- Very much like my teacher
- Much like my teacher
- Somewhat like my teacher
- A little like my teacher
- Not at all like my teacher

Comments

13. Feedback: Grading

*"My lesson teacher has communicated with me when I've been in jeopardy of receiving a low grade in my studio class."*

- Not applicable
- My teacher has
- My teacher has not
- I've never been in jeopardy of receiving an undesirable grade.

Other comments?

14. Feedback

*"My lesson teacher tells me when my preparation is inadequate."*

- Not applicable
- Very much like my teacher
- Much like my teacher
- Somewhat like my teacher
- A little like my teacher
- Not at all like my teacher

Comments

15. Feedback: Student sensitivity

*"I feel that my teacher is overly critical in the feedback he/she gives me."*

- Very much
- Much
- Some
- A little
- Not at all

Comments

16. Identity

*To what extent do you believe you are defined by your abilities as an instrumentalist/vocalist?*

- To a great extent
- To a large extent
- To a moderate extent
- Somewhat
- Not at all

Other comments?

**17. Feedback: Student sensitivity**

*"I have made a complaint with a college and/or university administrator(s) due to a teacher's overly critical feedback."*

- Not applicable
- I have     I have not     Other

Comments

**18. Parents**

*How involved are your parents/guardians in your college experience?*

- Very involved. They visit frequently and check in on me often.
- Involved. They come to special events and check in on me.
- Moderately involved
- Below average
- Not at all

**19. Competition**

*Do you view your private lesson studio as competitive? For example, do you strive to be better than other other players in the studio?*

- My studio is extremely competitive
- My studio is very competitive
- My studio is moderately competitive
- My studio is not very competitive
- My studio is not competitive at all

Other comments?

**20. Feedback: Anxiety**

*Does going to, and playing in, your lessons make you anxious?*

- Very often
- Often
- Sometimes
- Seldom
- Never

Other comments?

**21. Self-esteem**

*Have you received feedback about your playing that has hurt your feelings?*

- Very often
- Often
- Sometimes
- Seldom
- Never

**22. Role model**

*To what extent do you view your private lesson teacher as a role model? (Note: This can mean a musical role model, a professional role model, and/or a personal role model.)*

- Almost exclusively
- To a large extent

- To a moderate extent
- Somewhat
- Not at all

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## Appendix C

### Mental Toughness Questionnaire (MTQ18)

Please indicate your response to the following items by selecting one of the available answers. Please answer these items carefully, thinking about how you are in general. Do not spend too much time on any one item.

1. Even when under considerable pressure I usually remain calm.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
2. I tend to worry about things well before they actually happen.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
3. I usually find it hard to summon enthusiasm for the tasks I have to do.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
4. I generally cope well with any problems that occur.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
5. I generally feel that I am a worthwhile person.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
6. "I just don't know where to begin" is a feeling I usually have when presented with several things to do at once.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
7. I usually speak my mind when I have something to say.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
8. When I make mistakes I usually let it worry me for days after.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
9. In discussions, I tend to back-down even when I feel strongly about something.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
10. I generally feel in control.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
11. I often wish my life was more predictable.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
12. When I am feeling tired I find it difficult to get going.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
13. I am generally able to react quickly when something unexpected happens.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
14. However bad things are, I usually feel they will work out positively in the end.  
 Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree
15. I generally look on the bright side of life.

Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree

16. I generally find it hard to relax.

Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree

17. I usually find it difficult to make a mental effort when I am tired.

Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree

18. If I feel somebody is wrong, I am not afraid to argue with them.

Strongly disagree  Disagree  Neither agree nor disagree  Agree  Strongly agree

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## **ARTICLE 2: MUSIC EDUCATORS AND THE LAW**

### **Abstract**

This study examined the perceptions of in-service music educators regarding aspects of education law. An electronic questionnaire was disseminated, via email, to in-service music educators. Participants included music educators ( $N = 152$ ;  $M_{\text{age}} = 41.7$ ) from each of the 50 states whose teaching assignments occur primarily at the high school (grades 9 – 12) levels. The questionnaire included questions about the adequacy of the legal content in their undergraduate music teacher training programs and graduate studies, as well as about additional resources used to obtain information about aspects of education law. Participants were also asked for recommendations regarding possible additions of education law content in undergraduate teacher training programs. The main portion of the questionnaire specified 30 legal issues common to educators and music educators and asked participants to indicate whether these issues had impacted their professional practice. Data were analyzed to determine those aspects of education law that are most prevalent for practicing music educators, as well as to examine relationships between teachers' ages, years of experience, ensemble and activity types, and the most prevalent legal issues. Results indicated that these participants viewed their undergraduate teacher training programs, and graduate studies, as having included very low levels of legal content. Few of the participants indicated receiving additional education and training from a legal specialist, and taking part in sessions on legal topics offered by their school districts and professional associations. The legal issues receiving the greatest numbers of selections as having been experienced by the participants included 5 aspects of copyright law, religious music and lyrics in educational and performance material, and protection of student health (i.e., medical) information. Factors such as age, professional experience, and

ensemble/activity types were largely unrelated to participants' indications of prevalent legal issues or with the total number of legal issues expressed. The total number of legal issues selected was significantly correlated with the number of traveling groups (ensembles) with which the teachers were associated. Teachers of marching band indicated a greater number of total legal issues having been dealt with in their professional experience. And teachers of orchestra demonstrated fewer total numbers of legal issues experienced.

*Keywords:* copyright, education law, in-service music teachers, music education, undergraduate teacher training



## **Music Educators and the Law**

In the United States, no force stands to so substantively and radically shape the teaching profession, and the careers of educators, as does the law. The 50 state legal systems, dedicated jurisdictions (District of Columbia and Puerto Rico) in addition to the federal system, constitutes a multi-faceted framework into which nearly every aspect of teaching and learning is situated. And, in many cases, situated differently, since issues may be interpreted in light of an array of case law.

The 1980s marked an upward surge in the frequency of lawsuits involving educators (Dunkee & Shoop, 1986). The prevalence of, and tendencies toward, litigation led Lieberman (1981) to call it a “secular religion” in the U.S. A professor at Wellesley College remarked, “Few Americans, it seems, can tolerate more than five minutes of frustration without submitting to the temptations to sue” (Auerbach, 1976, p. 42). The incidences had reached a fever pitch resulting in calls for teacher training programs to redouble efforts to more adequately prepare pre-service educators for the reality of the litigious climate (Bednar, 1984; Dunklee, 1986).

Today, education law is more complex than anticipated decades ago. Among issues that touch many educators, with legal strings attached, are such things as dress codes, freedom of speech, individualized educational programs (IEP), internet usage and rights and censorship, an array of discipline issues, grading, testing, religious practices in the school or at school functions which are usually accompanied by issues of religious dress and religious holidays, discrimination, standards of care, teacher contract issues, special education, vaccinations, and expectations of a constant duty to disclose signs of maltreatment or abuse of students (Taylor, 1996). Educators are impacted by federal laws like the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), and The Elementary and Secondary

Education Act of 1965, much of which was reinvigorated in the No Child Left Behind Act of 2001, 20 U.S.C. § 6319 (2008).

### **State Law vs Federal Law**

Because the majority of issues covered in extant literature of this type centralizes federal law, and often constitutional law, state law is rarely mentioned. Authors tend to treat those issues reaching the appellate levels and beyond as precedent setting, and thus, illuminate these findings more readily. However, state law, or—more specifically—issues that are controlled, at least initially by state law, deserve their mention here as well.

For example, Mead (2008) indicates that employee (teacher) disputes with their employers occupies a substantial portion of the litigation involving teachers. McIntyre (1990) indicated that, even at that time, 38% of case law involving public school music educators involved “Due Process” issues (p. 108). Some of the 38% included actions where music educators were listed among the defendants in instances where, through disciplinary actions, students had been removed from participation in a program or even from their school temporarily (i.e., suspension). But some of these, no doubt, involved the educators as the plaintiffs moving against their employers for violations of Due Process. In such instances, the initial cause of action was in the area of contract disputes, or the larger subject area, labor law. In labor law, state laws control in most causes of action, unless violations of federal law have been committed as well.

**Teachers and contract law.** Briefly consider the employment arrangements of educators in private schools in the U.S. In most cases, these are not public schools accepting state and federal funding and teachers and administrators at these schools are not deemed to be acting under color of state law. The contracts offered to teachers are usually at-will employment contracts, which tend to stipulate that either party—the teacher or the institution—is free to

terminate the contract at any time, for any reason (see, *Hessenthaler v. Tri-County Sister Help, Inc.*, 2005). According to the language, it seems perfectly legal for a school's administrators to terminate the employment of a teacher because he is deemed to be too old. Or, because the individual is a member of a minority racial or ethnic group. *Henry v. Pittsburg & Lake Erie R.R. Co.*, (1891) provided the longstanding rule that an employer may terminate an employee "for good reason, bad reason, or no reason at all." But an array of state and federal laws has tempered that distinction. The statement actually means "for any *legal* reason" which changes the interpretation dramatically, and gives rise to lawsuits even in the case of at-will employment.

### **Music Education and the Law**

Obviously, music educators are impacted by developments in case law. Nearly thirty years ago, McIntyre's seminal doctoral dissertation was among the first to synthesize an array of court cases—involving music and/or music educators—that had reached the appellate levels and beyond. These cases primarily shed light on precedent-setting interpretations of law at the federal level. Some of these included the following.

*Caldwell v. Craighead* (1970) which arose in Tennessee and was decided in the Sixth Circuit Court of Appeals. High school band director Donald Craighead suspended and effectively expelled an African American student from the band program for leaving the area when the pep band played "Dixie" at a high school basketball game. The student left amid racial slurs from members of the crowd. The court held that "conduct amounting to racial discrimination and conduct which denotes racial hostility and prejudice are not identical in the eyes of the law" (p. 217). Caldwell's suspension was upheld because he violated a school policy, not his objections to a racially charged environment.

*Florey v. Sioux Falls School District* (1980) arose in South Dakota and was ultimately decided by the Eighth Circuit Court of Appeals. A student and his father sued the Sioux Falls

School Board contending that a new district policy enabled Christmas assemblies—which they viewed as religious exercises—to freely exist in school functions. The plaintiffs contended that this violated the Establishment Clause and the Free Exercise Clause of the First Amendment to the U.S. Constitution, and that allowing the Christmas assemblies constituted the advancement of religion. Much of the case relied on the plaintiffs’ efforts to define traditional Christmas carols as a part of religious cannon. The plaintiffs did not prevail in this case. The court held that the Constitution does not prohibit religious materials in schools, and that where government involvement is linked to a religious activity, the Establishment Clause is not automatically violated. The court also held that Christmas carols were legitimate choices for performance in public schools on the basis of cultural and historical significance.

In *Bauchman v. West High School* (1997) the causes of action were similar. Decided by the United States District Court for the District of Utah, Rachel Bauchman, who was a Jewish student at a public high school named her choir director, the school, the school district, and administrators as defendants claiming that the teacher’s requirements that students learn and perform Christian music constituted mandatory participation in religious practices. These actions, Bauchman contended, violated the First Amendment’s Establishment Clause. In this case, Bauchman was specifically given the option to not participate in the singing of the songs if she felt they were not aligned with her religious beliefs and she was assured that abstention would not impact her grade (Bauchman, 1997, p. 557). The court ultimately found in favor of the defendants.

In *Johnson v. Shineman* (1983) decided in the Missouri Court of Appeals, Western District, a student and his parents filed suit against the student’s band and choir directors, the school principal, and the district superintendent for having been assigned a failing quarter grade. The class policy—stating that performances in December were required as a part of the course—

was disclosed to students at the beginning of the term. Being excused from the concert performances required a request from the teachers prior to the concert dates. Johnson made no such request and the family left for a trip to Hawai'i one day prior to the concert. The failing grade was imposed. The student and parents sued. The court determined that the student had obviously violated the school policy and that the grade penalty was justified. But this case also invoked an objection to the mandate of student performances of Christmas music saying, much like in *Bauchman* and *Florey*, that the entire concert requirement was a violation of the First Amendment. The court determined that the mere existence of religious music did not violate constitutional requirements for separation of church and state.

In *Sheldon v. Fannin* (1963) from the United States District Court for the District of Arizona (Prescott Division) parents of elementary school students filed suit after the students were suspended for insubordination when they refused to stand for the singing of the national anthem based on their religious beliefs. The students were Jehovah's Witnesses and had committed no other violations of school policy leading up to the suspension. In this case, the only reason for the suspension was the refusal to stand. The students prevailed and the court granted an injunction prohibited the students from being barred from attendance at school. The court stated "Every citizen is free to stand or sit, sing or remain silent, when The Star Spangled Banner is played" (Sheldon, 1963, p. 774).

**Contemporary issues.** How can we read about cases like *Sheldon v. Fannin* (1963) and not immediately see the contemporary similarities where athletes choose not only to avoid standing for the national anthem, as did the elementary students in *Sheldon*, but also to kneel in a show of protest (Wagoner, 2016). One cannot help but envision circumstances where, for example, marching band members, who play The Star Spangled Banner at college football

games, choose to abstain in such substantial numbers that the only remedy is to play a recording since the band would be rendered too imbalanced or small to effectively present the music.

**Summary.** The extant court cases summarized by authors such as McIntyre, Kerr, and others, led to conclusions indicating that music educators found themselves at an elevated risk of litigation (or involving their schools and school districts in litigation) due primarily to the nature of the music activities and their substantive differences when compared to the typical classroom. In particular, high school level music educators seem to be at particular risk of being named a defendant in a lawsuit. Perhaps because ensemble travel is more frequent among high school music groups (McIntyre, 1990) or that high school ensembles, which tend to be graded courses, participate in performances and adjudicated events to a greater degree than younger ensembles. Perhaps for an array of reasons fused together by the fact that teenagers—coming to an increasing awareness of their independence and, thus, their legal rights—tend to rebel against policy and authority figures to a greater degree than do students of younger ages, the conclusion seems difficult to deny.

### **The Current Research**

The purpose of the study was to examine the opinions and perceptions of in-service music educators regarding various dimensions of their education, training, and professional experiences and any potential legal implications. Specifically, the research set out to address the following questions:

- 1 What legal concerns (i.e., topics) are the most prevalent among high school music educators?
- 2 To what extent do music educators believe that their being named as a defendant in a law suit is more or less likely than a decade ago?

- 3 How much training did the music educators receive, as a part of their undergraduate and graduate studies, in aspects of education law?
- 4 What recommendations do in-service music educators have regarding legal topics that should or should not be included in undergraduate music teacher training programs?
- 5 To what extent do the opinions and perceptions—reported by in-service music educators—associated with gender, age, and/or by the types of music ensembles/activities directed and/or instructed?

## **Method**

### **Participants**

In this study 1,000 high school level in-service music educators were selected for potential participation in the study (20 music educators per state). This constituted a geographic strategy due to implications of the various state legal systems under which the music educator participants practice. Of the 1,000 initial email addresses, 26 email addresses were found to be non-functioning, leaving a total of 974 potential participants who received the initial email seeking participation. All participants were recruited by randomly selecting high schools from each state and retrieving publicly available email addresses for the music educators from the school web pages. An invitation email was sent including the link to the electronic questionnaire with a follow-up (i.e., reminder) email sent approximately two weeks after the initial email.

One hundred fifty-two music educators ( $N = 152$ ) from all 50 U.S. states participated in this study. The 152 participants here represent a 15.6% response rate. Ages ranged from 21 to 75 years ( $M = 41.7$ ,  $SD = 12.3$ ) with between 11 to 15 years of professional teaching experience, and between 6 to 10 years of experience in their current state. Teachers reported their teaching assignments as: 1) concert/symphonic band (56.5%), 2) concert choir (45.4%), 3) marching band (41.4%), 4) jazz band (36.1%), 5) orchestra (28.9%), 6) percussion ensemble (23.7%), 7) jazz

combo (15.8%), 8) show choir (15.1%), 9) guitar ensemble (13.8%), and 10) vocal jazz (8.5%).

Grade levels taught by the music educators included grade 1 through college level teaching, with 90.1% indicating teaching assignments with grades 9 – 12. Table 5 includes the descriptive characteristics of the participants.

Table 5. *Descriptive Characteristics of Participants (N = 152)*

Variable	# (%)	M (SD) or %	Range
Age		41.7 (12.3)	21-75
Professional Experience <sup>†</sup>		4.16 (1.54)	1-6
< 1 year	4 (2.6)	$\frac{3}{4}$	$\frac{3}{4}$
1 – 5 years	21 (13.8)	$\frac{3}{4}$	$\frac{3}{4}$
6 – 10 years	35 (23)	$\frac{3}{4}$	$\frac{3}{4}$
11 – 15 years	25 (16.4)	$\frac{3}{4}$	$\frac{3}{4}$
16 – 20 years	20 (13.2)	$\frac{3}{4}$	$\frac{3}{4}$
20+ years	47 (31)	$\frac{3}{4}$	$\frac{3}{4}$
Experience in State <sup>††</sup>		3.88 (1.67)	1-6
< 1 year	8 (5.3)	$\frac{3}{4}$	$\frac{3}{4}$
1 – 5 years	28 (18.4)	$\frac{3}{4}$	$\frac{3}{4}$
6 – 10 years	36 (23.7)	$\frac{3}{4}$	$\frac{3}{4}$
11 – 15 years	23 (15.1)	$\frac{3}{4}$	$\frac{3}{4}$
16 – 20 years	16 (10.5)	$\frac{3}{4}$	$\frac{3}{4}$
20+ years	41 (27)	$\frac{3}{4}$	$\frac{3}{4}$
Education <sup>†††</sup>		2.91 (1.23)	1-5
Bachelor's Degree	29 (16)	$\frac{3}{4}$	$\frac{3}{4}$
Bachelor's Degree plus additional graduate studies	25 (16.7)	$\frac{3}{4}$	$\frac{3}{4}$
Master's Degree	39 (25.6)	$\frac{3}{4}$	$\frac{3}{4}$
Master's Degree plus additional graduate studies	49 (32.2)	$\frac{3}{4}$	$\frac{3}{4}$
Doctorate	10 (6.6)	$\frac{3}{4}$	$\frac{3}{4}$
Grade Level Teaching Assignments/Experience			
Grades 9 - 12	$\frac{3}{4}$	137 (90.1%)	$\frac{3}{4}$
Grades 6 - 8	$\frac{3}{4}$	66 (43.4%)	$\frac{3}{4}$
Grades 1 - 5	$\frac{3}{4}$	18.6 (12.2%)	$\frac{3}{4}$
College	11 (7.2)	$\frac{3}{4}$	$\frac{3}{4}$
Ensembles/Activities			
Symphonic Band/Wind Ensemble	86 (56.5)	$\frac{3}{4}$	$\frac{3}{4}$
Concert Choir	69 (45.4)	$\frac{3}{4}$	$\frac{3}{4}$
Marching Band	63 (41.4)	$\frac{3}{4}$	$\frac{3}{4}$
Jazz Band	55 (36.1)	$\frac{3}{4}$	$\frac{3}{4}$
Orchestra	44 (28.9)	$\frac{3}{4}$	$\frac{3}{4}$
Percussion Ensemble	36 (23.7)	$\frac{3}{4}$	$\frac{3}{4}$
Jazz Combo	24 (15.8)	$\frac{3}{4}$	$\frac{3}{4}$
Show Choir	23 (15.1)	$\frac{3}{4}$	$\frac{3}{4}$
Guitar Ensemble	21 (13.8)	$\frac{3}{4}$	$\frac{3}{4}$
Vocal Jazz	13 (8.5)	$\frac{3}{4}$	$\frac{3}{4}$

Note. <sup>†</sup>Professional Experience was coded (1 = < 1 year, to 6 = 20+ years) and the Mean value is calculated from frequency counts of the code categories; <sup>††</sup>Experience in State was coded (1 = < 1 year, to 6 = 20+ years) and the Mean value is calculated from frequency counts of the code categories; <sup>†††</sup>Education was coded (1 = Bachelor's Degree, to 5 = Doctorate).



## Questionnaire

Participants filled out the Music Educators and the Law Questionnaire (Appendix A) designed by the researcher. The questionnaire was constructed only for electronic use using principles of tailored design for internet surveys (Dillman, Smyth, & Christian, 2014) as well as design elements derived from the work of Couper, Traugott, and Lamias (2001).

**Sections.** The questionnaire was divided into three sections. The first included a series of 5 demographic questions including such things as age, professional experience, and state affiliation. The second section included questions regarding the participants' teaching assignments and grade levels taught. The third section was comprised of 21 questions. Eleven of these items pertained to instruction in various aspects of law in the undergraduate teacher training and graduate programs (if any) attended by the participants. Four of the eleven questions asked participants to indicate the extent to which legal issues were included, and how well their undergraduate and graduate programs prepared them for legal aspects of teaching. The items were rated on a 5-point Likert scale ranging from 1 (*not at all*) to 5 (*very much*). These items were not intended to be summed to constitute a total score. Rather, the duplications were intended to improve the likelihood of capturing data about these issues in the event items were omitted by participants.

Two questions asked for undergraduate and graduate courses the participants could remember taking where legal issues were covered. Answers to these were in free response format. Two of the 11 questions asked whether the undergraduate and graduate courses were elective or required, and two asked if participants had received information from an attorney regarding legal aspects of teaching. These 4 questions allowed for answers in the form of *yes, no*,

or *don't remember*. One question asked about sources of legal instruction encountered in the last 4 years, including 8 possibilities for *yes* or *no* responses.

Six questions on the questionnaire constituted a 30-item *yes* or *no* section identifying issues of education law. These legal issues were named, given short descriptors (e.g., “Copyright – relative to copying printed music” and “In Loco Parentis – where you are acting in the place of a parent”) and positioned next to check boxes. Selection of the box indicated that participants had dealt with, or been influenced by, these issues in their professional practice as educators. Nearly every question of the 21-question section (third section) included a comment box for free response in addition to the selection mechanisms.

## **Results**

### **Preliminary Data Analyses**

The data were checked for accuracy and completeness. Eight observations using the Likert scale responses were found to be missing. Missing values were initially replaced using person-mean imputation (Hawthorne, Hawthorne, & Elliott, 2005). Leaving the missing values blank resulted in pairwise deletion of items where no data existed. Parallel analyses were conducted with and without the missing values. No substantive differences were found. The results with missing data are reported here.

### **Prevalent Legal Issues**

The foremost concern of this study was to determine which legal issues are the most frequently encountered by in-service music educators. Table 6 presents frequency counts—indicating the raw count totals for each issue—as well as the percentage of the participant group indicating that the issue was one that the teacher had dealt with, or been influenced by, in her professional practice.

Table 6. *Summary of Frequencies of Legal Issues (N = 152)*

Legal Issue	Frequency	Percentage
1. Copyright – relative to copying printed music	109	71.7%
2. Copyright – relative to lending/borrowing music	84	55.3%
3. Copyright – relative to arranging music	76	50.0%
4. Copyright – relative to recording/distributing music	76	50.0%
5. “Religious” Music/Lyrics – as educational performance material	72	47.4%
6. Protection of Student Health (i.e., medical) Information	69	45.4%
7. Copyright – relative to performing certain music	68	44.8%
8. Duty to Report – such as signs of abuse/victimization of students	62	40.8%
9. Student Non-Participation – based on objections to content/ideas	56	36.8%
10. Student Discipline – related to imposing restrictions on participation	56	36.8%
11. Freedom of Expression – related to student attire	54	35.5%
12. Contract Law – involving teacher contracts	47	30.9%
13. Personal Property – involving searching/confiscating student property	47	30.9%
14. Possession of Illegal Substances – relative to your students' possession	45	29.6%
15. Prayer in School	33	21.7%
16. In Loco Parentis	31	20.4%
17. Freedom of Speech – related to your own use of words	27	17.8%
18. Personal Property – involving teacher property	27	17.8%
19. Personal Property – relative to searching students' property	26	17.1%
20. Conflicts of Laws – in traveling, with students, to another state/country	24	15.8%
21. Discipline – disciplinary measures against the teacher	24	15.8%
22. Tax/Finance Laws – related to student/parent fees	23	15.1%
23. Self-Defense – related to teachers defending themselves	20	13.2%
24. Grading – students/parents contesting grading on legal grounds	20	13.2%
25. Freedom of Speech – related to student language	19	12.5%
26. Student Discipline – related to corporal punishment of students	15	9.7%
27. Harassment – involving the teacher being accused	14	9.2%
28. Self Defense – related to students defending themselves	13	8.5%
29. Due Process – where student discipline required a hearing or review	9	5.9%
30. Standard of Care – involving objections to physical activity	7	5.8%

**Copyright.** Based on the responses of the participants, copyright issues top the list of legal concerns for these music educators. Collectively, 413 indications of copyright dealings were obtained. These indications were provided in relation to 5 different applications of copyright issues frequently encountered by music educators. These included: 1) making copies

(reproductions) of printed musical scores or parts ( $n = 109, 71.7\%$ ), 2) lending and borrowing printed musical scores and parts ( $n = 84, 55.3\%$ ), 3) arranging music ( $n = 76, 50.0\%$ ), 4) recording and distributing music ( $n = 76, 50.0\%$ ), and 5) performing music ( $n = 68, 44.8\%$ ). Even the average of the 413 marks (divided by the 5 applications) put copyright issues at the top of the list. The final question on the questionnaire asked participants to enter the legal issue, covered in the questionnaire, that was *most* frequent for them. Copyright issues were listed 8 times more than the next most frequent issue (religious music or text as learning and performance material).

In efforts to examine whether copyright issues were associated (correlated) with teachers of specific ensembles or groups, Phi-coefficients were calculated for each of the 5 applications of copyright, and the ensemble/group types. Here, only three correlations were significant. Regarding making copies (reproductions) of printed musical scores or parts, teachers of concert or symphonic band tended to select this issue  $f = .24, p < .05$ . With respect to copyright concerns when performing music, teachers of jazz band were associated with the selection  $f = .18, p < .05$ . And, teachers of marching bands were more likely to identify copyright concerns related to arranging music  $f = .18, p < .05$ .

**Religious music and lyrics.** The issue of selecting religious music as learning and performance material also appeared to be frequently encountered by these music educators ( $n = 72, 47.4\%$ ). This issue pertains to the First Amendment's Establishment Clause, prohibiting government from making any law that respects an establishment of religion as well as taking actions that favor one religion over another. The potential applications of the Establishment Clause are more constrained than with copyright law. In this circumstance, the school or institution would be construed as an extension of government, and

thus, these issues are probably more likely to be of great concern in *public* schools. An additional application of this issue was included as “Prayer in School” which received far fewer selections ( $n = 33, 21.7\%$ ). Notably, selection of this issue was not significantly related to teachers of any specific ensemble or group type.

**Protection of student health information.** Participants also counted the protection of student health (i.e., medical) information among the foremost legal concerns with which they are involved ( $n = 69, 45.4\%$ ). The applicable law in this situation is The Health Insurance Portability and Accountability Act of 1996 (HIPAA). This is a federal law that requires the protection of sensitive patient health information. Teachers who selected this issue were not significantly correlated with any ensemble or group.

### **Law in Teacher Training**

An additional purpose of the study was to determine how and where practicing music educators had received their education and training on relevant matters of education law. Participants indicated, on a five-point Likert scale from 1 (*not at all*) to 5 (*very much*) the extent to which aspects of education law had been included in their undergraduate teacher training. Participants ( $N = 152$ ) reported low levels of legal content ( $M = 1.97, SD = .68$ ) in their undergraduate experiences. Those participants who had pursued graduate studies ( $n = 124, 81.6\%$ ) reported even lower levels of legal content ( $M = 1.43, SD = 1.13$ ) in their graduate programs. Participants were asked two additional questions about their undergraduate and graduate preparation, and how well those experiences had prepared them for legal matters in teaching. Using the same 5-point Likert scale, participants reported low levels of perceived legal preparation in undergraduate studies ( $M = 1.83, SD = .74$ ) and graduate studies ( $M = 2.01, SD = .97$ ).

Participants were asked to recall specific courses where legal matters had been presented and studied in their undergraduate and graduate studies. Only 53 participants (34.9%) replied to the free response question on undergraduate courses and included an array of classes in both general education and music education curricula (e.g., Exceptional Learners and Inclusion, Professional Issues in Secondary Education, Classroom Management, Psychology of the Exceptional Child, Introduction to Music Education, and Teaching Instrumental Music). Fewer participants still ( $n = 34$ ) listed courses including legal content at the graduate level. These included: Music and Special Education, Music Administration, Education Law, and Research in Music Education among others.

In a free response question, 55 participants made various recommendations about including legal content in undergraduate music teacher training. No particular themes emerged among the statements, aside from conveying the importance of some kind of training in legal aspects of education. One example illustrating the general regard for high import of education law is as follows.

I feel that this should be a subject taught at all college and universities as part of the requirements to graduate if [the student is] going into education. [I] would have liked to have known much more [about] the legalities and rules of copyright with music, as well as IEP's, 504's, health and medical forms, etc.

Other commentary included recommendations pertaining to such issues as social media, contract law, copyright law, teacher rights (by State), and union issues. One participant commented,

Copyright laws as well as FERPA and more of the general ed[ucation] laws like who is entitled to an education and how a student can be expelled. Some type of information regarding contracts, hiring and firing, and licensing would be nice.

Participants were generally less committed to exactly where such content would be placed into an undergraduate music education curriculum. One participant merely commented, “These should be separate classes.”

To complete the section, participants were asked if they had ever attended a presentation on education law by an attorney, or if they had consulted privately with an attorney about issues regarding education law. Only 26 participants (17.1%) indicated that they had ever attended such a session, and only 14 (9.2%) indicated that they had ever consulted with an attorney privately.

### **Likelihood of Litigation**

Participants were asked whether they believed that the likelihood of them being involved in litigation was more likely, less likely, or about the same as 10 years ago. Responses involved a 3-item Likert scale between 1 (*less likely than 10 years ago*) and 3 (*more likely than 10 years ago*). Responses indicated that participants believe that the likelihood of their involvement in litigation is more likely ( $M = 2.6, SD = .59$ ). Only 37 respondents commented on this question, but the comments overwhelmingly related to an increasingly litigious society. As one participant put it - “The overall environment (in public education and the U.S. culture as whole) is more litigious with each passing year.”

### **Legal Issues in Totality**

Participants in this study were presented with 30 possible legal issues they may have faced in their practice as music educators. Indicators of having experienced these issues were summed for each participant, yielding a potential score of between 0 and 30. Actual totals fell between 0 and 27 ( $M = 8.24, SD = 6.83$ ). Pearson Product-Moment Correlations were calculated between total legal issues and age as well as professional experience. Neither age, nor professional experience, were found to have significant correlations with the total number of

legal issues selected. Total number of legal issues expressed was significantly correlated with the number of traveling groups (ensembles) with which the teachers were associated ( $r = .19, p < .05$ ). Point-biserial correlations were calculated between ensemble type and total legal issues, revealing only two items of interest. Teachers of marching band indicated a greater number of legal issues ( $r = .18, p < .05$ ) having been dealt with in their professional experience. Also, teachers of orchestra demonstrated concerns over fewer numbers of legal issues, represented by a negative correlation coefficient ( $r = -.17, p < .05$ ). In spite of statistical significance, the practical significance of these correlations is very low. They explain between 2.9% and 3.6% of the variance between the related elements.

### **Discussion**

The current study evaluated three dimensions of education law as it applies to music educators in the United States. The first of these constituted a poll of extant legal issues to determine the extent to which practicing music educators perceive the issues to be relevant for them, in the current educational ethos. We have no comparable recent survey of in-service music teacher perceptions to compare, but in contrast to the suggestions of McIntyre (1990) and Mead (2008), it was not teacher disputes with their employers (contract or labor law) that occupied the foremost concerns for music teachers in this study, but the various aspects of copyright law.

That concerns over copyright law would be inextricably woven into music education is not surprising. Authors have approached this subject, in the context of music teaching, for decades (e.g., Berk, 1971; Finkelstein, 1958; Gary, 1965). But this result, that copyright issues may not merely be *a* concern for practicing music educators, but possibly *the foremost* legal concern lends some support for recent research (Egger & Springer, 2018) and writing (e.g., Drummond, 2015) pertaining to copyright in music education.



The second dimension of education law examined here included avenues of legal knowledge acquisition. The study sought information regarding how, where, and to what extent music educators received their education and training in legal matters. The results here suggest that these in-service music educators perceived their undergraduate and graduate teacher training to have included low levels of education law content. The result is not surprising in relation to graduate programs in music since such programs are usually concentrated in areas of specialized musical skills. Undergraduate music education and teacher training programs are a different matter, however. It is in these programs where undergraduate students acquire the foundational skills for success as an educator.

Admittedly, not all knowledge comes through the formal processes of undergraduate and graduate programs. The questions in this study sought information about legal education and training through a legal specialist (i.e., an attorney) as well as through mechanisms provided by the music educators' school districts and professional organizations. However, this data indicates relatively low levels of information coming from these sources as well. This paints an unsettling, if not grim, picture. Unless some substantial source of legal education and training has been omitted in this study, these music educators have largely obtained their education and training in legal matters through first-hand experience, trial-and-error, and on-the-job encounters. The recommendations of the educators, while relatively few in number, constitute a call for legal education to occupy a larger portion of formal education and training, prior to entry into the field as a professional.

The third aspect of education law examined here deals with the perceived localization of legal issues according to ensemble/activity type as well as attributes of teachers who report having experienced greater numbers of legal issues. For example, it seems logical to associate

teachers of concert choirs with the issue of Establishment Clause concerns. A great deal of the choral literature cannon is grounded in sacred music. Similarly, marching bands would logically seem to be a hotbed of legal issues since custom musical arrangements are frequently used (implicating copyright concerns) and since the activity borders on sport where health (i.e., medical) information is so important. It is also likely that no ensemble travels more than a marching band implicating conflicts of laws issues as well as In Loco Parentis (requiring school personnel to serve in the absence of parents). However, these data do not support much localization. Correlations, when significant, were very low here indicating that while certain legal issues have been identified as relevant in the professional experiences of these participants, the issues are more evenly dispersed in terms of ensemble and activity types. This fact seems to lend credibility to the positions of these participants who recommended increased levels of education law content in the undergraduate programs for *all* future music educators regardless of the type of music educator they are to become. No participant indicated that increased education and training in law was relevant for some music educators versus others. These data support this.

### **Implications for Music Educators**

The current study offers two primary implications for in-service and pre-service music educators. The first of these deals with the potential reality that in-service music educators find themselves with few easy options to increase their levels of knowledge about education law. They are learning on the job and cannot easily benefit from substantive changes to undergraduate or graduate teacher training programs. What fills or satisfies this current need? Only the initiative of the individual music educators themselves. In-service music educators would do well to engage in self-study and to partake of as many resources as are available to them, especially in the area of copyright law. Secondly, for the pre-service music educators who are still positioned

to benefit from modifications to undergraduate teacher training programs, obviously some additional content in legal training could be justifiably integrated into pre-service teacher training. But this, too, may leave some pre-service music teachers behind, resulting in another call for self-directed paths to supplement gaps in essential legal knowledge. The pursuit of elective courses during undergraduate and graduate studies seems like the most promising formal route to gaining and enhancing knowledge of legal issues. Such courses appear to be well worth the time and expense, since legal issues inevitably await pre-service educators upon entry into the field of teaching.

Two obvious limitations of self-directed efforts like the ones mentioned above include the expense—borne by the individual music educator—and an awareness of what legal issues might be relevant, instigating the pursuit of efforts to learn about those issues. However, school district administrators and officials might augment the efforts of music educators as they seek to gain knowledge about relevant legal issues. A number of possibilities exist, including the facilitation of sessions, within the school district, that focus on the legal implications of music educators' professional practice. The expenses would be satisfied by the school district, and music educators might experience an additional benefit as they are presented with legal issues that are not only relevant in their professional practice, but also important to their specific school districts.

### **Suggestions for Further Research**

This study constituted a survey of in-service music educators' perceptions of relevant legal issues at the current time. It stands in contrast to much literature that either tacitly assumes the relevance of specific legal issues, and that reviews relative case law in years past. Future research that merely replicates this kind of design is warranted since laws change and case law

develops. While a sense of awareness is gained from a study of this type, its value is time-sensitive since the most relevant legal issues for music educators are likely to change as well. Even using this identical questionnaire might yield a different order of relevant legal issues if administered even a few years into the future.

Further, two additional lines of study may be advisable. The first of these would involve a state-based approach since relevant legal issues in education may be distinguished from state to state. Such studies would utilize participants exclusively within the borders of individual states. The second potential line of additional research would examine relevant legal issues while integrating past and current case law. But a report format is unlikely to be of great interest to in-service and pre-service music educators. In addition to these aspects of future writings, recommendations that pertain to effectively navigating the legal issues appear to be desirable. This advisory dimension of such literature would necessitate the input of legal professionals, but would be able to offer the kind practical information that seemed to be revealed by many of the participants' comments in this study.

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# Appendix A

## Music Educators and the Law

Thank you for participating in this survey. The information you provide is critical to this study. The following 20 questions may take around 10 minutes to complete. Please feel free to add comments in the comment boxes. All of your responses are anonymous.

### 1. Law in Undergraduate Teacher Training

To what extent were aspects of education law included in your undergraduate teacher training? (Select "Not applicable" if you had no undergraduate teacher training.)

Not applicable

Not at all  A little  Some  Much  Very much

Comments

### 2. Courses Including Legal Content

Can you recall any specific courses you took in your undergraduate teacher training that included legal topics or issues? (Please list any courses in the box below.)

Not applicable

### 3. Undergraduate Courses: Elective or Required

Were any of the courses you identified in the previous question elective courses? (i.e., Courses you were not required to complete.)

Not applicable

Yes

No

Don't remember

Comments

### 4. Law in Graduate Studies

To what extent were aspects of education law included in your graduate studies? (Note: Consider any formal education beyond your Bachelor's Degree.)

Not at all  A little  Some  Much  Very much

Comments

### 5. Courses Including Legal Content

Can you recall any specific courses you took in your graduate studies that included legal topics or issues? (Please list any courses in the box below.)

Not applicable

### 6. Graduate Courses: Elective or Required

Were any of the courses you identified in the previous question elective courses? (i.e., Courses you were not required to complete.)

Not applicable

Yes

No

Don't remember

Comments

**7. Undergraduate: Preparation for Legal Issues in Teaching**

*To what extent did your undergraduate teacher training adequately prepare you to recognize and navigate legal matters in your profession?*

Not applicable

Not at all  A little  Some  Much  Very much

**8. Graduate: Preparation for Legal Issues in Teaching**

*To what extent did your graduate studies adequately prepare you to recognize and navigate legal matters in your profession?*

Not applicable

Not at all  A little  Some  Much  Very much

**9. Additional Resources in Legal Aspects of Teaching**

*In the last 4 years, which of the following have you participated in and obtained information/advice regarding legal aspects related to teaching? (Select all that apply.)*

Not applicable

Teacher seminar(s)--including legal matters--at professional conference(s)

Teacher inservice(s)--including sessions on legal matters--in my school/district

Presentation(s)--including legal aspects of teaching--by my labor union representative(s)

Presentation(s)--including legal aspects of teaching--with my department head

Presentation(s)--including legal aspects of teaching--by my school/district administrator(s)

Private consultation(s)--including legal aspects of teaching--with my labor union representative(s)

Private consultation(s)--including legal aspects of teaching--with my department head

Private consultation(s)--including legal aspects of teaching--with my school/district administrator(s)

None of these

Comments

**10. Attorney as Legal Resource**

*Have you ever attended a presentation including legal aspects of teaching where an attorney served as the presenter?*

Yes

No

Don't remember

Comments

**11. Attorney as Legal Resource**

*Have you ever consulted privately with an attorney regarding legal aspects of teaching?*

Not applicable

Yes

No

Don't remember

Comments

12. Recommendations for Legal Instruction in Undergraduate Teacher Training

*Do you have any recommendations regarding legal issues/aspects of teaching that you feel should or should not be included in undergraduate teacher training?*

Other comments

13. Likelihood of Involvement in Litigation

*Compared to 10 years ago, do you believe that you/your school are more or less likely to be involved in litigation over a matter in which you are directly involved?*

- Less likely than 10 years ago
- About the same likelihood as 10 years ago
- More likely than 10 years ago

Why?

14. Education Law in Your Experience

*Which of the following legal issues have you dealt with, or been influenced by, in your work as a teacher? (Select all that apply.)*

- "Religious" music as educational/performance material
- Copyright - relative to copying printed music
- Freedom of Speech - related to your own use of words
- Protection of student health (i.e., medical) information
- Personal Property - relative to student property (e.g., cell phones)

Comments

15. Education Law in Your Experience

*Which of the following legal issues have you dealt with, or been influenced by, in your work as a teacher? (Select all that apply.)*

- Student non-participation in music performances based on objections to content/ideas
- Copyright - relative to performing certain music
- Freedom of Speech - related to student language
- Duty to Report - such as signs of abuse/victimization of students
- Personal Property - relative to your own property rights

Comments

16. Option to Refrain

*In your teaching, do you make students aware that they have the right to refrain (i.e., opt out) of musical performances if they find the music or its ideas offensive?*

- No
- No. I am not even sure if students have this right.
- No. Students do not have this right.

Yes

Other?

**17. Education Law in Your Experience**

*Which of the following legal issues have you dealt with, or been influenced by, in your work as a teacher? (Select all that apply.)*

- Freedom of Expression - related to student attire
- Copyright - relative to recording/distributing certain music
- Student Discipline - related to corporal punishment of students
- Self Defense - related to defending yourself in your work
- Personal Property - relative to searching students' property

Comments

**18. Education Law in Your Experience**

*Which of the following legal issues have you dealt with, or been influenced by, in your work as a teacher? (Select all that apply.)*

- Prayer in School
- Copyright - relative to lending/borrowing printed music
- Student Discipline - related to imposing restrictions on participation
- Grading - related to students/parents contesting your grading practices in court
- in Loco Parentis - where you are acting in the place of a parent

Comments

**19. Education Law in Your Experience**

*Which of the following legal issues have you dealt with, or been influenced by, in your work as a teacher? (Select all that apply.)*

- Discipline - relative to labor law and disciplinary measures against you as a teacher
- Copyright - relative to arranging music
- Possession of Illegal Substances - relative to your students' possession
- Self Defense - related to students defending themselves
- Conflicts of Laws - such as when traveling, with students, to another state or country

Comments

**20. Education Law in Your Experience**

*Which of the following legal issues have you dealt with, or been influenced by, in your work as a teacher? (Select all that apply.)*

- Contract Law - involving the details of your own contract or supplemental contract(s)
- Tax/Finance Laws - related to student/parent fees
- Standard of Care - involving objections to required physical activity (for example, in marching band)
- Harassment - where you have been accused or threatened with an accusation
- Due Process - where student discipline required a hearing or review

Comments

## CONCLUSIONS

Returning to pragmatic philosophy presented in the initial introduction, these phenomena, while different, inform portions of a backdrop against which contemporary music educators practice. The two studies executed here illuminate a number of challenges facing practicing music educators that augment what is an already complicated profession. To illustrate the reality music educators face with regard to education law, not only do they express a lack of preparation, but the law is not stagnant. It is not fixed. It is a constantly evolving phenomenon. Some reassurance can be gained from established legal precedents. The doctrine of *stare decisis* dictates that previous court decisions constitute the basis for future ones (Alexander & Alexander, 2001). The term actually means, “let the decision stand” and requires that past legal decisions are binding in cases that have the same or similar facts. Because of this, each case is not only a conflict in need of judicial remedy, but also a piece of a body of case law that serves to weigh in future determinations. The precedent setting effect of the cases presented here seem reassuring in ways. *Bauchman*, *Johnson*, and *Florey*, for example, may lead to reassurances in instances where musical selections with religious or liturgical overtones are utilized in music teaching and performance. Each case invoked objections based on First Amendment issues, and each was unsuccessful. *Caldwell* and *Johnson* may seem to serve as support for school policies in instances of objections. In each case, the music course policies, determined by the teachers, were construed by the court to be school policies.

However, aspects of copyright law, for example, continue to be shaped by current court decisions. One of the most substantial of these recent decisions came in the case of *Impression Products v. Lexmark International* (2017) where the Supreme Court ruled that all patent rights

exhaust, and do not survive, the first sale. The decision is bound to have massive implications for copyright law. Although, in this case, it may set the minds of music educators at ease.

Nevertheless, rulings like this one illustrate substantial movement in law that impacts music educators. So, a call for increased education law content in undergraduate and graduate music teacher training programs, as many participants suggested in article 2, would hardly be enough.

A case is made not only for increased education law content in these programs, but for continuing education programs for music educators.

The venture into aspects of criticism, feedback, student sensitivities, and mental toughness in article 1 constitutes an exploratory study that raises more questions than it answers. Namely, can any of these results be replicated and developed into more meaningful research? Similar to the revelations from article 2, these issues constitute realities that impact the professional practice of music educators, but that also continue to evolve. The relative obscurity of comparable research, making the mental toughness study among the first of its kind to include U.S. music teachers and students, supports this. The conclusory aspect of article 1 appears to be an announcement that a new measure is available and appears to be potentially useful in post-secondary applied music studies.

Ultimately, this research illustrates that practice as a contemporary music educator requires constant efforts to keep pace with at least two phenomena that show no signs of slowing in their development. These dimensions of music educators' professional practice add to the perception, and the reality, that the profession is more dynamic and demanding than at any earlier time.

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