

## School and the law

### Today's teachers 'spooked' by the law

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**Over the last couple of decades there has been a change in our society where litigation and the threat of it in all aspects of life has significantly increased. The schools and, in particular, the teachers have not escaped this change. Child protection laws and increased cases of litigation are part of the teacher's working environment. Increasingly, educational professionals have to focus on and engage with the legal dimension of their work.<sup>1</sup>**

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We are already seeing litigious proceedings become commonly accepted responses to schools' management of such areas as student misbehaviour, curriculum choice and attendance in class.<sup>2</sup>

How are the teachers coping with this school-based rise in 'litigious proceedings'?

From NSW based studies of those teaching for the Department of Education and Training, it appears the answer, for this group at least, is not very well. These studies indicate that a combination of time shortage, potential litigation and resourcing issues are resulting in considerable stress for NSW Department of Education teachers.<sup>3,4,5</sup> These teachers are reported to be taking more time off than ever before and they are blaming stress. Figures show a dramatic rise in the amount of sick leave taken by teachers who are reported to be saying that they simply cannot continue to cope with work pressures resulting from increased change. The NSW Department of Education and Training's annual report (2007) shows that in New South Wales (NSW) 18,305 state school teachers took stress-related sick leave in 2000. Stress-related sick leave increased by more than 50% in just two years. In 2002, the figure was 27,299—a rise of 9,000. It appears that these teachers were, and are continuing to be, 'spooked' by the law.

One could be tempted to see the negative impact of potential litigation on teachers as a public school phenomenon. We would initially speculate that teachers in private schools, with their close

connection to their community and consultative ethos, would not feel the pressure of potential litigation to such an extent. However, in a recent private-school based study, where 282 primary teachers within the Australian Seventh-day Adventist school system (ASA) were surveyed, the results suggest otherwise.<sup>6</sup>

The data from the Matthes (2010) study, part of which looked at factors that were challenging teachers in their present role, indicated that teachers were not only challenged by the potential for litigation but were also stressed about their lack of knowledge of the law and how it related to their teaching environment.

This study (Matthes, 2010) reported that 82.1 percent of the participants indicated that increased likelihood of litigation against teachers was indeed a challenge. This finding was not predicted; rather it was thought that as all the teachers belonged to a church-based education system where litigation is normally very infrequent, that this would not be of considerable concern to them. One teacher stated, however, that:

I sometimes experience fear that I am like a flammable liquid, waiting to be ignited. I have resorted to not taking children on excursions anymore, in case something happens to a student.<sup>7</sup>

This study went on to report that all the teachers knew someone or they themselves had experienced an encounter with the law in relation to a school matter. They indicated that sometimes what they had heard was most likely somewhat exaggerated, but the real facts were never communicated to them and this may have highlighted the perception of this challenge. The participants indicated that they perceived that when teachers were subjected to the law, either rightly or wrongly, the formal systems put in place by both the employing body and the government seemed to desert rather than support the teachers. This was very disconcerting.

This concern can be summed up in the following teacher's comment:

At the whim of a parent's accusation, I was suspended from my duties. I didn't even know what the accusation was; meanwhile I didn't have a chance to defend my innocence as the rumour mill ran rife. I felt very vulnerable, with little support and not much information through proper channels.<sup>8</sup>

Teachers saw the need for a "school-wide implementation of change and procedures for [teachers'] protection". Another teacher stated:

A teacher friend of mine is no longer in the ASA System teaching. His career was cut short based on an accusation that was never proven. It seems often that we only receive Admin support when the 'chips are up'.<sup>9</sup>

Once again, it appears that these teachers are 'spooked' by the law.

The Matthes (2010) study suggests that in the ASA system, at least, the teachers are considerably stressed by the potential of litigation and their lack of knowledge of the school and the law. Further, it would seem reasonable to suggest that teachers within other private school systems could also be experiencing similar responses. The teachers in

ASA schools also have a perception that the school system needs to provide a considerably more comprehensive set of procedures for safeguarding them against potential litigation and for support for teachers when they are confronted by litigation.

The challenge for school and system administrators is to find ways to 'de-spook' their teachers as 'de-spooked' teachers must surely be more effective teachers. **TEACH**

## Endnotes

<sup>1</sup> Cotter, R. (1995). Legal issues. *Directions in Education*, 4(16), 2.

<sup>2</sup> Davis, B. (1996). Leadership in the next millennium. *The Practising Administrator*, 1, 6–11.

<sup>3</sup> NSW Department of Education and Training. (2007). Annual Report. Sydney: Strategic Planning and Regulation.

<sup>4</sup> Williamson, L. (1988). Why be a teacher? *Classroom*, 6(9), 9–11.

<sup>5</sup> Dinham, S. & Scott, C. (1997). Teacher and executive satisfaction, motivation and health. *The Practising Administrator*, 4, 36–39.

<sup>6-9</sup> Matthes, A. C. (2010). *The relationship between the principal's leadership characteristics and the ability of primary teachers to deal successfully with the challenges associated with change: A teacher's perspective* (Unpublished doctoral dissertation). University of Newcastle, Callaghan.

“**The school system needs to provide a considerably more comprehensive set of procedures for safeguarding teachers against potential litigation**”