

CHAPTER 1

INTRODUCTION

1.0 INTRODUCTION

Today, the nature of a principal's job is fundamentally different as a result of this tide of litigation. In addition of the traditional function as a mentor, instructional leader, chief disciplinarian, site manager and decision-maker, the principals' function has taken on new overtones. The principal of the 21st century must now be, to a certain degree undreamed of even twenty-five years ago, a legal expert (Howard, 1997). Principals who attempt to manage schools in the 21st century without a working knowledge of educational related law are operating under unrealistic assumptions and may also may needlessly exposing themselves to liability from a variety of sources.

A superficial understanding of school law is becoming increasingly inadequate for the principals of today. The principal's legal knowledge must go beyond a shallow, mechanical level so that a fuller appreciation of liability risks can be reached. The principals' job has changed dramatically as a result of the law's influx into the classroom (Howard, 1996)

According to Ogletree (1985), a growing number of new statutes, regulations and court rulings have a major impact on education today. He stresses that in many respects the nature of administrator's legal responsibilities has undergone a drastic change and therefore function in the midst of an increasingly complex legal environment. It is clear that many principals are unaware of the law and are thus operating at their own peril.

Stewart (1997) cited Sergiovani that an increased complexity surrounding schools has resulted in the principalship becoming more professionalised and the role of the principal highly specialized. Stewart (1997, p.30) further argues that while principals do not need a degree in law but they do need and are expected to have an appropriate and adequate knowledge of the aspects of school law that impinge on their professional responsibilities. It is rapidly becoming incumbent on principals as part of their overall professional knowledge, to have sufficient understanding of school law to be able to implement appropriate legal risk management strategies in their schools. He also stresses that a working knowledge of the parliamentary statutes and common law decisions, which affects schools, are being increasingly perceived necessary accoutrements of the professional knowledge of school principals.

The last thirty years have been an era of increased litigation and legislation in the public school arena (Hillman, 1988). Yet one cannot assume that the passages of law and adjudication of court cases readily institutionalize acceptance and implementation. Firstly, to comply with the law, principals must be knowledgeable of legal mandates. Hillman (1988) concluded that principal's generally evidence serious deficits in their knowledge of various school related legal issues. It is also found that principals' to be lacking in knowledge, especially when applying legal principles to actual situations.

According to Reglin (1992, p.26), the public schools are operating in a society shaped by legal decisions. In the early part of the 20th century schools can be considered autonomous because the law rarely affected the curriculum or students. Today, the situation is different. Courts often decide educational policy matters, curriculum issues, teacher rights and student rights. To be effective educators, there is a need to be knowledgeable about public school law and its impact on daily school

operations. Knowledge of public school law is essential because lawsuit is the major weapon in the arsenal of those who wish to change public schools. Reglin (1992) insisted that educators ignore law at their own peril and asserted that ignorance of the law is no excuse for professionals. He further asserts that educators should take heed that if they are careless, unprofessional or negligent they could be subjected to financial penalty.

The knowledge of education law is more effective as a protector than a healer and it is better to have a solid understanding of education law than it is to study the relevant statutes after a problem has occurred. (Reglin, 1992). At times education litigation seems to outpace the principal's ability to cope, thus resulting in confusion, frustration, stress and even hostility towards the law. Principals must be trained in the areas of duty and standards of care as they are in important positions to make rational decisions with increased confidence.

Equipped with this knowledge, it will enable them to provide proper supervision and to protect the rights and welfare of students. Only a few principals have a grasp of preventive law and even fewer have a working knowledge of how laws affecting education apply to the daily operations of public schools (Bednar, 1984). LaMorte (1996) concurred stating that educators who 'fly by the seat of their pants' or who act on the basis of what they think the law should be may be in difficulty if sufficient thought is not given to the legal implications and ramifications of their policies or conduct.

Principals should focus on what protections are afforded if litigation does occur (Permuth, p.44). Principals should know about state statutes to understand what statutory provisions exist to provide protection as long as the administrator is acting

within the scope of his or her duties and other parameters established by the Education Ministry.

A survey conducted in 1990 by the National School Boards Association in America found that school districts were spending an average of US\$13,500 annually on legal fees, which extrapolated to total more than US\$200 million per year throughout the country (Petzko, 1998). This confusion, financial burden and emotional drain have persisted through the 1990s, with no indication that legal issues in education will be less difficult to understand or complex to administer in the 21st century.

In short research continually has documented that school principals possess a limited knowledge base of law and cases affecting education. Hence, the problem here is to explore reasons why the void exists and subsequently what steps could be taken towards more legal awareness for principals.

1.1 STATEMENT OF PROBLEM

Principals and teachers have understood and the courts have agreed that the school has authority over public school students because the educators stand in the place of parents as long as the child is in school (Strope, 1998). In other words, educators have the authority to discipline and control students just as parents have. But parents these days no longer readily accept educators' decisions. So the courts sensibly recognize that the doctrine of "in loco parentis", or doing what a parent would do, may no longer be the legal basis for educators' legal authority (Strope, p. 36). But the law still allows educators to rely on parental status in certain situations without being concerned with constitutional limitations.

In Malaysia the recognition of the doctrine of "in loco parentis" is being questioned and parents are unwilling to accept decisions undertaken by principals as the final

verdict on the child and thus are challenging some of the decisions taken. As the head of a school, principals need to have legal knowledge or at least a basic level of understanding of how the legal system works especially those affecting schools. This is to enable the principal to provide proper supervision and protect the legal rights and welfare of students and teachers. It also helps the principals to formulate and establish preventive measures for a smoother running of schools in order to create a better learning climate for students.

1.2 SIGNIFICANCE OF THE STUDY

The significance of this study is that the results from this research will assist educators to examine the degree to which legal understanding is needed to help manage problems in schools in order to manage schools for the better.

Currently there is a lack of information and data on legal awareness of principals in dealing with everyday matters and the running of a school. As we move into the new millennium, Malaysian schools have become the focus point of media attention. Many discussions tend to focus on curriculum, management and administrative issues that are undertaken by the school principals. Many are also questioning the rash and hurried decisions taken by school heads in dealing with issues on discipline, negligence and legal rights.

There are many principals who tend to take the easy way out by denying that such occurrences happen in schools. There is a growing number of principals who actually sweep everything under the carpet and react as if everything is fine until the problem accumulates or until the matter gets out of hand simply because these principals lack the understanding of legal issues.

Thus, this study will attempt to throw light upon the importance of having legal awareness among principals and their need to be familiar with certain legal policies taken by the Ministry of Education (MOE) in relevant areas. This study is also to explore why school principals have only a limited base of knowledge of the law and cases affecting education. After reviewing research studies which had assessed the legal knowledge base of administrators and teachers, Hillman (1988) concluded, “Educators generally evidence serious deficits in their knowledge of various school related legal issues.” Many principals are also said to be lacking in knowledge, especially when applying legal principals to actual situations.

It is hoped that with a clearer understanding of legal issues future principals will be better equipped to be effective decision makers and better prepared in dealing with everyday matters in the running of the school. Equipped with this knowledge, one hopes that principals would be more objective in handling issues pertaining to school and also be open in selecting alternative approaches towards improving and creating a more positive climate in schools of today.

1.3 PURPOSE OF STUDY

The purpose of the study is to assess the legal awareness of principals in six secondary schools in the Sentul Zone in Kuala Lumpur. This study may reveal some problems in schools where legal awareness is concerned among principals. With a better understanding and the application of legal knowledge, principals may find ways to improve the day-to-day running of schools and well as to upgrade and promote the level of accountability among principals.

1.4 RESEARCH QUESTION

This study seeks to examine the school principals' awareness on legal issues in Wilayah Persekutuan Kuala Lumpur. The research questions are as follows:

1. Are secondary school principals knowledgeable about legal concepts?
2. What is the relationship between legal knowledge of secondary school principals and their teaching experience?
3. What is the relationship between the legal knowledge of secondary school principals and their administrative experience?
4. What is the relationship between the applications of legal knowledge of principals in relation to the type of school based on the gender of the students?

1.5 LIMITATIONS OF STUDY

This study is restricted to six urban secondary schools in the Sentul Zone in Kuala Lumpur. The six-targeted schools consist of two secondary girls school, two secondary boys school and two secondary coeducational schools. With this diverse range of student population the study seeks to get a wider perspective of the legal knowledge of principals and the application of this knowledge in school.

This study is limited and focused only on the legal awareness of principals, which is manifested through teachers' rights, negligence, students' legal rights, school discipline and prevention. The relevant data and information collected is limited to structured interviews with the six principals who were identified to take part in this study.

1.6 DEFINITION OF TERMS

1.6.1 Legal Awareness

The legal awareness of principals in this study is measured through the application of their legal knowledge in daily aspects of school management in issues which are manifested through the handling of negligence issues, the legal rights of teachers, the legal rights of students and the prevention programs in school in order to make school safe and thus creating a conducive climate for learning to take place.

1.6.2 Negligence

Negligence is a word commonly used to cover a variety of behavior, actions and inactions. In the legal field, the term is more narrowly defined as failure to take reasonable care to avoid commissions or omissions that one can reasonable foresee would likely to injure another. For school principals, negligence is the failure to exercise the degree or the standard of care for the safety or well being of others that a reasonable and prudent school principal would exercise under similar circumstances.

1.6.3 Teachers' and students' legal rights.

The principals serves as a role model, accepts responsibility for school operations, considers the impact of one's management practices on others, treats people fairly, equitably, and with dignity and respect, protect the legal rights and confidentiality of staff and students, demonstrates appreciation for the sensitivity to the diversity in the school community (Skrla, Erlandson, Reed, & Wilson, 2001). Here the principal must demonstrate integrity and apply law and procedures fairly, wisely and considerately in order to get the best results for the school in order to protect the legal rights of teachers and students alike.

1.6.4 School Discipline

Discipline problems such as disobedience, teasing, and taunting, obscene gesturing, verbal and physical threats, aggression, bullying, assault (with or without weapons), vandalism, extortion, and gang related activities are some of the problems that are plaguing our schools these days. As this affects not only the perpetrator and the victim but also the entire student population and staff, it is up to the principal to handle such issues so that these problems can be curbed in order to bring about a safe school environment for the students and staff alike.

1.6.5 Prevention

Principals must provide adequate training to prevent the school and the principal from unwarranted litigation. All efforts directed at the prevention of litigable problems and appropriate rectification, when problems occur should be the center of the administrative personnel (Permuth, 1998). Teachers must be made aware through in-service programs and principals must make sure that they and their staff must be prepared so that they will understand why quick action is crucial.