CHAPTER 4
FINDINGS

4.0 INTRODUCTION

In order to elucidate and understand the principals’ awareness of legal issues in school management a qualitative approach was chosen for the research. The data collected was solely based on structured interviews with six principals (two male and four female principals) of Grade A schools located in the Sentul Zone in Wilayah Persekutuan Kuala Lumpur.

The main theme, which emerged from the principals’ interview, was identified as negligence, rights of teachers, students’ legal rights, school discipline and prevention.

4.1 PRINCIPAL OF SCHOOL A

The principal of School A has had 26 years of teaching experience. He had served in the police force before taking up the calling to become a teacher. He has been appointed as a principal four years ago and has been serving as a principal of this particular school since the year 2000. School A has a student population of 1,100 and the students come from lower and middle-income families.

4.1.1 Negligence

Principal A states that teachers will be held liable for using defective equipment because the teachers are professionals and they have to know what type of equipment to be used. They must be accountable for the lesson taught and will be held liable if students are injured. However, the school will also be held liable. The school will advise the teachers first to examine the equipment to be used and to make sure that
nothing happens to the students and student safety must be made a priority. If the principal doesn't advise the teachers and students from time to time the principal of the school would have to answer to the Department of Education and will have to write a report. The principal gave an example where a fighting, which took place at another school in which three students assaulted a boy and as a result the student sustained lacerations in his liver and died. The principal and the warden of the school were transferred within 24 hours because of the incident. It may seem that it was a discipline case and the discipline master must answer but the principal was held liable and accountable. In using defective equipment the principal as the head of the school has to answer to it.

Parents will be informed of any trip outside the school. Letters will be sent to them with the relevant information. As the parents have acknowledged the letter and signed for it the principal says that the school will not be held responsible if something goes wrong. He also states that it has been made compulsory that every student buys an insurance policy to make it safe for the students and the school will inform the insurance company to compensate them.

The principal would allow the teachers to administer first aid if needed with the help of the Red Crescent society. He would also allow teachers to dispense medicine like paracetamols (e.g. panadols) or medicines that are readily available in the market to students. Sometimes these paracetamols like panadol are also available from the school canteen and students will also buy them there.

Sports teachers owe a duty of care to the students and must be there to avoid any unforeseen unprecedented incidents from happening. The principal will not accept any reason for teachers who are not there to conduct lessons especially if it is a
physical education class. Parents can sue the school due to negligence on the part of
the teacher.

The teacher concerned will be held responsible; as the teacher is conducting the
lesson means classroom control is very bad. The lab assistants are also there to help
out with the chemicals and the material at hand. The principal finds that the teachers
and the lab assistants will be held responsible for injuries sustained in a fight that
took place during a supervised chemistry lesson. A fight that happens during a
teaching lesson is ridiculous says the principal of School A. Crowd control of the
teacher is bad and the teacher doesn’t have the expertise to control such situations.
He continues saying that the teacher doesn’t have the leadership and doesn’t
command the respect from the students to let things like this happen in the
classroom.

4.1.2 Rights of Teachers

The principal will query the teachers on duty why the students are allowed to buy
food for other teachers during lesson hours. Boys will be boys and don’t expect them
to have self-control and proper discipline, so the teachers must be in place to check
on these boys. The teacher should not ask the students to buy food from the canteen.
The school has built a special room for teachers for eating purpose and thus is barred
from eating in the staff room. If such an incident takes place then the teacher
concerned will have to answer to the principal.

The teacher will be held liable for unsupervised sports practice, as the teacher
concerned cannot leave the duty that has been entrusted to him/her.

The teacher cannot take advantage of a student and it will be considered as sexual
harassment. The school will submit a report to the department of education and they
will investigate the teacher concerned and will be sacked if there is proof. The principal will only act if there is a complain against the teacher. But he stresses that there are many teachers and students who do fall in love and end up being married. If there are rumours that there are teachers involved with students in a sexual manner than the school has to investigate because as a principal has the duty to protect all his students as well as the teachers. Normally he would transfer the teachers and also states that most of these kinds of cases surprisingly involves lady teachers rather than the male teachers.

Form teachers cannot write offensive and degrading remarks, as it will affect the students' future. As a principal he will go through all the school leaving certificates and testimonials and advise the teacher to make adjustments if the remarks written are not up to the standard.

The teachers are also advised not to try to discuss anti government issues. He advises the teachers to be loyal to the government of the day. The teachers are prohibited from discussing political issues in the classroom.

4.1.3 School Discipline

Principal of school A stresses that school discipline is his specialty because he has been in this field since the start of his teaching career. In an all boys school the main discipline problems faced by a principal usually involves a lot of fighting, truancy and extortion. But since becoming a principal of this School A, he says that he has managed to reduce the truancy rate to about ten percent. Three years ago the discipline problem was very serious that the boys will be fighting inside as well as outside the school compound especially in areas like at the bus stop. On top of all this, smoking was also a serious problem. As a principal he had to run after the boys
who were caught smoking. He will be the earliest to come to school (around 6.30 in the morning) go around the school as well as make rounds to all the favorite haunts of these boys around the school area like the hawkers stalls and because of this policy that he took upon himself the boys are now afraid to smoke in the surrounding area as he will punish the boy on the spot as it is deemed that school boys who smoke will give a very bad impression of the school to the public. He strongly believes that if the school doesn't react than in the future the parents will be afraid to send their children to this particular school.

Playing truant is a serious problem especially as the students like to hang out in cyber cafes and in the shopping complexes. As a principal he says that Malay students like to loiter (lepak), Indian students are involved in a lot of fighting and Chinese students are lazy, and prefer to stop school earlier to go out to work and are also involved in smoking. In this particular school he says that the Indian students give a lot of problem because they are usually involved in a lot of fighting and stresses that many other principals also face the same predicament.

The students also bring in weapons and thus as a principal he had to conduct spot checks, and even to the extent of going to the students homes to discuss problem with the parents concerning this issue. The more worrying concern about fighting is when it involves students of different races and this problem escalates into becoming a racial clash among students in this school. The principal would not simply expel a student, he would call the students for discussion, advise them and if it were a serious offence he would cane them and notify the parents. The second time if the student is involved then he would suspend them and if the student is caught again than only will the student be expelled from school. Sometimes he would not suspend but advise them to transfer school or leave the school.
A student is expelled according to procedure. There are two policies the Department of Education considers to expel the student that is if he is absent in a continuous manner or he is absent at interval periods to school. All teachers must know the procedure and the form teacher must inform the Students Affair Supervisor. He stands firm that it is not the policy of the school to simply expel the students but some students are more easily advised that others. If these stubborn students are not expelled than they create more trouble for the school and thus rendering the school to a more chaotic environment. Students like these need to be expelled because they do not want to help themselves and also create problems for others. The principal tries to help the students from as many angles as possible and anyhow without supportive documents from school counselors he would not expel the students. If after all this action is taken and they don’t change than the principal has no option but to expel them. But the boys who try to undermine the school and show their authority and portray that they are in a better position to fight the school it will be difficult to help. For such students and the school will have no option but to expel these students.

The principal will try to solve the problems at the school level but when fighting that involves different races occurs the police will be called to come in because he is afraid that it would turn into a racial clash. Sometimes this kind of fighting involves outsiders who want to beat up students in his school and the immediate action of the principal will be to inform the police. The police has no right to go into the classrooms to arrest students and as the principal the boys will be called into the principals room to ask the police to warn them or to take action against them. Some parents are not happy with these situations and even threaten the principal for the action that he has taken. As a principal he doesn’t like this kind of intimidation and doesn’t respond to these kinds of threats.
Corporal punishment is used in this school to control disciplinary problems. Some teachers are also empowered to cane the students and this power to cane students is usually given to the male teachers. The principal also stresses that all teachers are discipline teachers and everyone should play their part in handling the problems that arise in the school. Canning is carried out on students who are caught smoking (e.g. first offence 1 stroke, second offence 2 strokes and third offence 3 strokes and suspension fourth offence - expel). The principal admits that he doesn’t follow this order sometimes depending on the students that are stubborn he will punish them publicly to make them feel ashamed when they smoke openly because they have been warned. He considers that students who don’t listen are openly challenging his authority. Once punished these students will keep quiet and not complain about it because they know that after the third and fourth time being caught smoking they will be expelled and many of these students now they don’t dare smoke in school and the surrounding area around the school because of the stern action taken by the principal. The principal has also advised these students that if they still want to continue smoking do it somewhere far away from school and not in front of the school.

The students will be caned in his room and he doesn’t conduct public canning but states that he still has the authority to conduct public canning as his capacity as a principal. The principal conducts the canning himself sometimes but as age is catching up with him these days he lets his discipline master cane the students. The canning is done according to the procedure he reiterates and that there must be witnesses when the canning is taking place. He measures the cane used on the spot and states that it’s around 0.8cm in diameter. He says that Chinese students will retaliate when you scold them and cane them. These students will phone his house
and use abusive language on him as well as threaten him. He also states that Indian and Malay students will never do such things. He states that this is most probably because of the difference in culture and states that the Chinese boys are more pampered.

4.1.4 Legal rights of students

The principal states that the school doesn’t need a search warrant and the principal has authority to search and conduct any activity that he sees as fit to be carried out. Searches are carried out on a regular basis and the principal states that students and parents need not know when and where the searches will be conducted because the student is in school and not in their house. If the principal receives information about certain students than searches will be carried out. In some of these searches drugs such as ganja and even condoms have been found to be in possession of the students. Then his first step will be to inform the parents. All things that are confiscated will be documented and these students will be given a stern warning not to bring all these items to school.

The school he says will withhold certificates and testimonials of students until they return what they owe the school. This is the only way the school can recuperate all its loses that the student has incurred.

The grades and the discipline problem are not the same issue and thus the teachers cannot reduce grades of a student for disciplinary purposes.

As the searches are conducted secretly the parents are not informed. Parents will be called in for a heart to heart discussion with the principal when a student who has repeatedly committed serious offences. The main purpose is to help the students and to educate them. He states that the parents who refuse to abide by the decision taken
by the school than as principal he will still continue with the action. If the parent is not happy than they are welcome to report him to the Education Department and he will see the Director of Education himself. He states that as a principal one should not be afraid and should carry out his or her duties to the optimum in order to improve the image of the school.

School policy is explained to the students every year and the parents are not informed. The information is updated through assemblies, posters and the form teachers will inform the students on the latest happenings.

Urine testing is conducted quite regularly in School A (about 4 times in a school year). The education department will conduct the testing and the principal will request for the testing to be done whenever the need for such as testing is felt required. The selection of the students is based on suspicion. The results will be confidential and will be released to the principal and the counselor only. If the urine is found positive for drugs than the department of education will show the school what necessary steps that need to be taken. The students will not be expelled they will be monitored as well as to motivate them to get themselves involved in healthier activities.

4.1.5 Prevention

Targeted searches are conducted especially among students who are involved or suspected in violating the school rule. Illegal items like drugs, cigarettes, and pornographic materials are usually found during searches.

The principal, the students’ affair supervisor and the discipline board are in charge of planning and developing disciplinary policy in schools. Teachers are given resources for implementing prevention programs. The teachers have knowledge on educational
policies and law especially now that they have to sit for exams in order to get promoted. Some of them attend seminars and meetings. They are encouraged to read books and attend staff development programs. Training is conducted for staff especially for classroom control. The principal is in charge of implementing such programs. They are conducted when the need arises.

There is a clear chain of command in the school for responding to violent incidents and the principal is always there to address the problems. In his absence than the assistant principal will take over. If the problem is too serious then the principal will be informed. As the system is already established, this enables the principal to move around to attend meetings and seminars outside the school.

4.2 PRINCIPAL OF SCHOOL B

School B is located along Jalan Sentul. It is a mission school and consists of male students. The principal of this school has 25 years teaching experience and out of this she has been a principal for the last two and a half years. She was made principal of this particular school in September 2001. The student population in this school is around 1,200 and most of them come from a low socio-economic background.

4.2.1 Negligence

This principal says that the teacher will be held liable for using defective equipment during a chemistry lesson because the teacher concern should have checked the equipment, as it is his/her responsibility to do so before the start of any lesson. The school is also liable because it involves the security aspect of the student and thus it has its part to play in creating and ensuring a safe environment for the students.
In the matter of a signed permission slip it doesn’t absolve the teacher and school from all blame. If a student drowns during a school trip then the principal has to look into the matter and investigate. If the teachers were found negligent then the teacher and school has to face up to the liability.

The principal strongly states that no medicine will be prescribed to any students under any circumstances. Only basic first aid will be administered and the child will be sent to the nearest clinic or hospital. She states that the school does not have all the proper documentation on the child’s medical state and as teachers have no qualification in dispensing medicine, none will be given to the students.

She also agrees that there is a duty of care owed to the students during sports practice or during physical education classes. Basically she states that when injury happens during a physical educational class, the teacher concerned will be deemed negligent as especially if he/she could not control the class. The teacher will have to write a report and the principal investigate. The principal identifies the teacher and the school will be held responsible for injuries sustained by a student in a fight that took place during a supervised lesson.

4.2.2 Rights of Teachers

A teacher will be held liable if a child is injured while running an errand for the teacher because the teacher serves as the role of in loco parentis. An errand like buying food for the teacher is considered as against the teaching profession and thus the teacher will have the burden of the blame.

She also states that the teacher and the school will be held responsible for any injuries to a student during an unsupervised sports practice. The students are not supposed to practice if there is no teacher to supervise them. No teachers are
supposed to write any bad remarks about a student, as it will affect the student’s future

Sexual activity concerning a teacher and a student is a very serious offence. It is considered as abuse especially sex with a minor who is considered a juvenile and the offence is greater if the child is below 15 years in age. As a principal she says that controversial issues which is related to politics is a not allowed and the teacher can be charged in doing so. Some issues like euthanasia and streaming can be discussed in the classroom providing it is done in a balance and fair manner.

4.2.3 School Discipline

The problems that she has faced as a principal is mostly related to truancy, disinterest in studies in which some students create disruptions in classrooms, touchy student relationships which leads to racial issues among students, coming to school late, smoking and drugs. The major discipline issues that are plaguing the school is the lack of discipline among the students, refusal to take up advice and truancy.

If students are caught bringing weapons to school it is considered a very serious offence and the school will call in the parents and expel the student. Students will also be expelled for fighting but again it depends on the severity of the offence. Some offences that are accumulated over a period of time like truancy, vandalism, threats and extortion, students who bring down the image of the school and other students, drug taking and cheating in exams are some of the offences that will be considered in expelling a student.

Racial fights are also considered a very serious threat and if such an event happens in school, the principal will not hesitate to call the police to come in and deal with the
situation. Even seriously bodily threats to a person or teachers in the school will be referred as a police case.

The principal says that corporal punishment is not really encouraged in schools but the school still carries it out in order to instill discipline in the students. The canning has to be witnessed, documented and carried out in a fair and equitable manner. Only certain teachers are empowered to cane the students. As a female principal, she also canes the boys herself as she says she can't wait for some teachers. All the canning is either carried out in the principal’s room or the discipline room and the diameter of the cane is around 0.8cm. She also stresses that only boys can be canned and not the girls.

4.2.4 Legal rights of students

In school in order to nab a students’ wrongdoing, the principal and teachers don't need a search warrant. Students are notified that that their properties may be subjected to searches at the start of the year through announcements and letters. When the search is carried out the students are not informed. Targeted searches are carried out on a case-by-case basis when there is strong evidence that points at a particular student and these searches are only documented sometimes.

A student cannot be legally denied their exam results or their school-leaving certificate. But these certificates are withheld from the students to return things that belong to the school and it is looked upon as an indirect way of teaching responsibility to the students. The principal also clearly states that no students' grades can be reduced as a result of their disciplinary problems as the two have no connection to each other.
Parents are not informed before searches are conducted but the child has been warned that these things will take place from time to time. Parents are consulted before any serious disciplinary action is taken against a student. The principal said that many parents are under the impression that their children are well behaved but in actual fact they are not. As such disciplinary action is still carried out even if the parents object to it. Furthermore parents have received a copy of the school rules and acknowledged it by signing the copy and returning the portion to the school.

School policies, rules and regulation are distributed to the students the very moment they register in this school. Parents are also sent circulars informing them on the latest updates and announcements are made to students on these matters.

Urine testing for drugs is carried out at least once a year and the Department of Education handles this program. Students are selected randomly and the results are confidential. If the sample is found to be positive the counselor will be responsible for the child and parents will be informed.

4.2.5 Prevention

There are no specific teachers in charge to supervise school grounds. All teachers are supposed to do so. The principal and senior teachers do rounds and the prefects, private security guards and the cleaners also help out in supervision of the grounds.

Targeted searches are conducted and the discipline masters check on certain students. These searches are usually for cigarettes. Places that are commonly targeted are the toilets and students' bags. As the exams approach random checking is done more frequently especially to catch students with long hair.

The principal, the student affairs supervisor and the discipline board carry out planning and developing policy in schools. The teachers in the discipline board may
give a lot of suggestions but many of them drag their feet in carrying out the regulations. These teachers are often sent for seminars to gain knowledge on how to carry out programs in schools and with the PTK exams there is also ample material for the teachers to refer to. Many of the staff are also members of National Union of the Teaching Profession (NUTP) and are quite familiar with teaching policies.

Teachers are also informed on the current updates through staff meetings and police personnel are invited to give talks. All teachers are discipline teachers and these training should have been given to them while in the training colleges. Sometimes many of the policies have to repeated again and again by the management, as it is a boy’s school.

Even in a crisis, there is no clear chain of command as everyone will have to act on his or her own and the problem will always be referred back to the principal.

4.3 PRINCIPAL OF SCHOOL C

School C is a co-educational school situated along Jalan Kepong and caters to about 2044 students yearly. The students largely (60%) come from low socio-economic families and the remainder from medium income families. The principal of this school has been serving this school in this capacity since 2001. He has a total of 33 years of teaching experience and has been a principal for the last five years.

4.3.1 Negligence

According to the principal of school C, he says that the teacher will be held liable for using defective equipment during a chemistry lesson. Teachers are well versed in the lesson and if the mistake is on the teacher then the teacher will be held liable. The school prohibits the use of ill-fitting equipment. Teachers must know how to use the
equipment. Teachers who use such equipment are professionally trained and must know how to use this equipment and will be responsible for it. The principal will charge the teachers if a mistake occurs as the teachers should know how to teach and adhere to the standing order of the lesson and the usage of the equipment.

Teachers must always make sure that they have a signed permission note from the parents before any outing. If an injury takes place than an inquiry panel will be set up and the school will still have to bear some responsibility.

The principal stresses that medicine cannot be simply dispensed to students. For some minor problems paracetamols will be given to students but in most cases the student will be sent to the nearest clinic. This is done for the safety of the students.

He agrees that there is a duty of care owed to the students for any activity or games that are conducted in school. Before these activities take place teachers should be briefed about the students and standard of precaution that need to be taken. Then before such activities take place the students should also be briefed on the safety aspects.

In identifying who are responsible for the negligence he says that the teacher who was teaching the lesson, the Academic Supervisor and the principal will be responsible for any incident that took place in the supervised chemistry lesson.

4.3.2 Rights of teachers

The teacher will be at fault if a student is injured while running an errand for the teacher. When investigating the school must also look into the situation before any action is taken. Students are also advised and warned that no activity especially those involving games will take place without the supervision of teachers. If these students still stubbornly persist on carrying out their practices without a teacher present than
the teacher has nothing to do with it. But the principal still has to look into the matter and investigate the allegations.

As a principal he says that he has yet to encounter a teacher writing offensive remarks because it is his policy that rather than write such remarks he would rather not issue the testimonial or school leaving certificate to the student. Once the student is remorseful of his behavior then he (the principal) will issue the proper documents to the students. He says this is his way of doing things because offensive remarks will affect the student’s future.

A teacher will be dismissed for sexual activity and the procedures will follow the government’s General Orders and the case will be referred to the disciplinary board set up by Department of Education.

Any controversial discussion that takes place in a classroom, the teacher concerned the principal says must be in control otherwise one shouldn’t embark on it. He believes in freedom of discussion but not overboard and always look into the General Orders. Sometimes the students are not matured and too emotional to handle controversial issues so it is advised that the teachers don’t embark on such discussions.

4.3.3 School Discipline

The common disciplinary problems faced by the school are truancy, students being rude to teachers, sometimes the use of profanities, vandalism and a little bit of fighting. He stresses that it only involves about 1% of the student population. It is difficult to catch the student red handed thus makes it difficult for action to be taken as there is lack of proof. The major discipline problems faced by the school is truancy and coming late to school. Sometimes they come to school and then
disappear half way through the lesson. Some of these students also are absent for particular subjects and reappear for the next lesson.

An investigation will be carried out if a student is caught bringing weapons to school. The student will be interrogated. Action will be taken depending on the findings of the investigation and also the disciplinary background of the student. As a principal of this school he says he has yet to come across such a case.

A student will be expelled based on the procedures that have been set by the education department. Most students are expelled because of truancy. Teachers play a role in trying to contact the student, the parents and also sending out the letters. Sometimes a student is given a second chance but if there is still no change in attitude then they will be expelled.

The police will be allowed in the school compound to arrest a student if they have enough proof. Till this date he says that there hasn’t been an incident that is serious enough to allow the police to enter the school.

Corporal punishment is allowed in schools. It depends on the severity of the offence. A student is given counseling and warnings are issued but if they persist then they will be expelled. The principal and the discipline teachers carry out the canning and this is done in a special room. Everything is done according to procedure and is documented. The diameter of the cane used he says is around 1cm.

4.3.4 Legal rights of students

Administrators need not have search warrants. As long as the principal gives permission that is all that is needed to conduct searches in schools. Students have been warned in advanced not to bring certain items to school and parents have been informed in black and white. All seizures are documented.
The school has a policy to withhold the school-leaving certificate and exam results on a temporary basis because it is the only way to recover what the students owe the school. The principal strongly says that grades can never be reduced because of disciplinary issues, as the academic achievement is totally different from the discipline issue.

Random searches, parents and students are never told when it is carried out. Parents will be called in when something is found. Parents sometimes have to be persuaded into accepting the disciplinary action that is to be taken on the student, as they have no knowledge on law. With proper and clear-cut proof, action will be carried out with or without parental consent.

Urine testing is also conducted at least once a year. Certain students are targeted but tested in a random group. All results are confidential. The department of education will handle what needs to be done if the student is found positive for drugs.

### 4.3.5 Prevention

There are about five to six teachers placed every week to supervise the grounds apart from the discipline teachers.

Targeted searches are conducted on a need basis but random searches are conducted are conducted quite frequently. Random searches are directed at all students.

As the principal he gives ideas, directives and advises the discipline board in order to plan policies for the school. He believes that teachers should be fully equipped with the related knowledge but states that many teachers are negligent and lack knowledge. To overcome such problems meetings are held, discussions and staff development programs takes place in order for teachers to feel equipped to handle
such situations. He said that many people are in charge of implementing programs in school (principal, the academic supervisor, the student affairs supervision).

The school has a book on how to handle crisis procedures and has confidence that most of the teachers know what to do when the need arises.

4.4 PRINCIPAL OF SCHOOL D

The principal of school D has been holding her current position for only seven months (elected as a principal on the 1st of April 2003). With 19 years of teaching experience but with no prior experience in upper management in school she finds it an uphill task to manage a school with a student population of around 2168 consisting of boys and girls. The students in school D mostly are from low socio-economic background.

4.4.1 Negligence

As a principal she finds that teachers will be held liable for using defective equipment because they were not following the rules and regulation and teachers have to take precaution when they are in the labs. The teachers also have the help of lab assistants and such incidents shouldn’t happen in the labs. As a principal if such an incident occurs than she will also be liable as the principals is responsible for whatever that happens in the school.

A signed permission note from the parent does not make the school liable for any injury that took place during a school trip. She also says that parents are given the option to allow the child to follow the activity or not and with the signature it absolves the school of the responsibility.
Medicine should never be dispensed as the child’s medical background is not known in detail and first aid will be given depending on the injuries and in most cases the child will be sent to the clinic or the nearest hospital. She agrees that there is a duty of care owed to students but says that sometimes teachers are a bit negligent on the safety aspects. She identifies the teacher in charge and the principal as the people that will be held responsible for injuries sustained by a student in a fight during a supervised chemistry lesson.

4.4.2 Rights of Teachers

Teacher will have to be held liable for injuries to the student if the child was running errands for the teacher as the teacher had no right to send the students during class hours to do so. The teacher will be responsible for anything that happens to the child. Students are also prohibited from playing games without a teacher to supervise them. A teacher must be around to supervise them if not they will not be allowed to carry out their activities.

As for writing offensive and degrading statements, a teacher will be held liable because it violates the teaching ethics. The teacher will be dismissed for sexual activity with a student as it again violates the teaching ethics. Action will only be taken if the victim reports the problem officially. The school she says will write a report and the Education Department will take the necessary action. Controversial issues cannot be discussed in the classrooms and teachers, as civil servant must be supportive of the leadership of the government.
4.4.3 School Discipline

Coming late to school, truancy, smoking, not wearing the proper school attire (name tag, badge), rude to the teachers and vandalism are some of the discipline problems faced by the school. The major discipline issue is truancy especially at the end of the year and when exams are over. As a principal she is not sure about the procedures involved when a student is caught bringing weapons to school.

A student will be expelled based on the list of severe or serious offences committed by the students (i.e. drugs, smoking, alcohol, fighting, threatening students/teachers, theft). She would allow the police to come into school to arrest one of her students if a gang fight takes place in school.

Canning is permitted but it depends on the offence of the student. For minor offences the principal or the discipline masters will cane the students on their palms and a maximum of three strokes will be given. For heavy offences the student will be canned on their back while wearing their uniform. The canning will never be carried out in public and only certain teachers are given the authority (surat kuasa) to cane by the principal.

4.4.4 Legal Rights of Students

The school administrators do not need a search warrant to search students’ personnel belongings as it is the right of the school to conduct spot checks on reasons of maintaining safety and creating a safe environment for everyone. All students and parents are informed that students’ property may be subjected to searches during the orientation program for students. They are also reminded during assemblies and the duty teacher documents all these for the week. She stresses that all students must
have a school rulebook and starting from the year 2004 all school regulation and rule in Wilayah Persekutuan will be standardized.

School leaving certificates, testimonial and exam certificates will be withheld temporarily until the student clears what they owe the school in terms of fees and books. It is the only efficient way of getting back the things the students owe the school.

There is no connection between the academic and discipline and thus grades can never be reduced for disciplinary purposes. The school though practices a merit and demerit system, which will affect the testimonial, and school leaving certificate and thus is rendered more professional.

At the school level the principal says that the school has full authority to take any action including searches to ensure safety and therefore parents are never consulted nor informed about when and where the searches will take place. But in the case of disciplinary action that is to be taken against the child parents are informed but the action will be carried out with or without the parents consent. If a parent cannot agree with the action they will be asked to appeal to the education department especially if they are expelled.

Parents are informed about the school rules through a variety of mediums. Mostly it is done through the PTA meetings and bulletins, which is given to every parent and updated once a month. The school also sends out letters informing them about the latest rules and regulations.

Urine testing is conducted in the school through the students' affairs unit. Students are selected after discussions between the disciplinary teachers and counselors and the results are confidential. If the sample is found to be positive the parents will be
informed before further action is taken. The student then will be placed under the
care of the department of education for further action.

4.4.5 Prevention

There are duty teachers to supervise school grounds everyday. These teachers will
have to come in early and leave the earliest at 2 o’clock in the afternoon.
Targeted searches are never conducted. Random searches on the other hand are
carried out. Only certain group of students are searched more so the form five
students when there is a complaint against them.
School policies are planned and developed by the principal, the supervisors and the
disciplinary board. The principal is not sure the amount of resources given to the
teachers for planning and developing policies. She admits that they have very little
knowledge on educational policies and law. Information is obtained by attending
seminars, meeting and from the newspaper.
Teachers are informed through meetings. No particular training is given to the
teaching staff on the whole. Only the discipline staff is exposed but states that all
teachers are discipline teachers. Even in staff meetings discipline matters is only
discussed as a component and at most times it is ignored, as the student affairs
supervisor is responsible for it. As for responding in a crisis it is considered that there
will be someone who will know what to do and thus developing a crisis procedure
has never given much thought to it.

4.5 PRINCIPAL OF SCHOOL E

With 27 years of teaching experience and out of this with 6 years of experience as a
principal she serves as the head of the principals’ association of Wilayah
Persekutuan. She held the post of principal for this particular school since 1st of March 2001 and serves as a principal to a population of 2109 female students that come from a very mixed socio economic background.

4.5.1 Negligence

She feels that the teacher will be held liable as it their primary duty to check equipment before it is used. More so as they also have the help of the lab assistants and preparation takes place 2-3 days before the lesson. All equipment must be checked before they are used. The school will be held liable as it is the main monitoring system and there is a hierarchical order for the monitoring to be carried out starting with the lab assistants, the science teacher, the head of the science department and finally the principal.

She also says that a signed permission note does not release the teacher and the school of liability during a school trip. Firstly the school has to make sure that the procedures have been taken (i.e. during a trip to the beach the school must make sure that a licensed life guard is around if there is any swimming to take place.) if the school follows all the procedures that has been given by the Ministry of Education then the transfer of liability to the teacher and school will be minimized.

No teachers are allowed to administer medicine, as they are not qualified to do so. Even paracetamols are not allowed as some students may be allergic and the teacher wouldn’t know about it. First aid must be given because the school has to take the first action and then send the child immediately to the hospital.

She strongly believes that there is a duty of care owed to the students. The duty involves making sure that proper and safe equipment is used. Teacher must be at hand to monitor and ensure the safety of the students more so when certain sports
equipment is used for example the javelin and discus. Teachers are reminded of the
duties during staff meetings and students are also reminded of safety procedures
from time to time.

In naming the people who would be held responsible by the court for injuries that
was sustained by a 16 year old in a fight that took place during a chemistry lesson
she says it will be the chemistry teacher, the principal and the Ministry of Education
(MOE).

4.5.2 Rights of Teachers

As it is not the students’ duty to be buying food for the teacher and if they are injured
doing so then the teacher will be held liable. She stresses that teachers should go to
the canteen and buy food themselves if they want a meal.

Teachers will be responsible for students’ injuries during an unsupervised sports
practice. The school management will also be held responsible as well. She reiterates
that teachers are the least protected by the law and if they are actually aware of the
law many would be afraid and never take up teaching.

No degrading remarks can be written about a student. The teachers should either
counsel or make efforts to talk to students so that the problem can be rectified.

In the case of sexual activity with students if there is enough evidence then the
principal must take disciplinary action against the teacher and follow procedures as
set by the MOE. She also says that controversial issues like government policies,
sensitive issues (racial) and political issues cannot be discussed in classes and again
the standards are set by the MOE.
4.5.3 School Discipline

Some of the common disciplinary problems faced in this particular school ranges from theft, copying during examination, latecomers, and truancy. As a principal she says that fighting between different races is one of the major disciplinary issues that she has faced as a principal. She also finds being a principal in a co-ed school is more challenging than a principal in an all girls school.

If a student is caught bringing weapons to school the parents will be informed. A meeting by the disciplinary council to decide the necessary action to be taken against the student follows this. A student will be expelled; again this depends on the set of procedures set by the MOE. Mostly it involves truancy and the type of offence the child has committed and how regularly he/she has repeatedly done the offence.

Police will be allowed to come into school if they have a warrant. Other than that if the school faces problems like gansterism, fighting, drugs and weapons than the police will be informed immediately.

Corporal punishment is allowed in schools but there is a certain jurisdiction and authority involved. Canning in public is not permitted and it has to be done in private in the principal’s room, witnessed and documented, as there is a special logbook for this. The principal should carry out the canning and only certain teachers can be given the power to cane the students. She is not sure of the diameter of the cane used.

4.5.4 Legal Rights of Students

As it a normal procedure for schools to conduct spot checks on the students the principal says it is not necessary for the administrators to have a search warrant to do so. No notification is given to students of when and where it will take place but all students have been pre-warned that searches will be conducted. Parents are also
informed at the beginning of the year and parents must return the signed note to acknowledge that they have read the school rules and the action that can be taken against their child for any wrongdoing.

The student cannot be legally denied their school leaving certificate or their testimonial but she states that it will be withheld temporarily so that things will be returned to the school as well as to teach these young people responsibility.

A student’s grade can only be altered for disciplinary purposes if he/she was caught copying or allowing another student to copy his/her work then the student will be awarded a zero in the particular subject.

Parents are never consulted before any searches are done. Parents are expected to know the school rules as they have signed the notification slip at the beginning of the year. All searches will have to follow procedures, the same with any disciplinary action taken against a student. Parents will be informed but again parents will only be told the kind of action that will be taken and parents will have to accept the decisions made by the school.

The school boldly takes such action because all this information is been given to the parents through various media. For example during the orientation week letters are sent to parents with all the necessary information, quarterly PTA news bulletins and letters whenever there is an update on the information at hand. Students are also notified through notices and information that is pasted all around the school especially before the school holidays so that students are clear on the specification so that they will be ready for the new school term.

The qualified testers sent by the Department of Health conduct urine testing in schools. Students are randomly selected inclusive of the suspected students. All
results are confidential. If a student is tested positive for drugs then the school will again follow the procedures set by the MOE and act accordingly.

4.5.5 Prevention

There are two duty teachers to supervise the grounds for the week. The duty is clearly written down but whether it is carried out to the fullest is another question all together.

Searches are carried out especially if something goes missing. Sometimes it is carried out in random (during assembly for all students) and sometimes it is targeted at a certain group of students (in the case of stolen items in a class).

The principal, the administrative council in school and the disciplinary board are responsible for school policy. Resources are readily available but the principal admits that the planners have very limited knowledge on law and education.

Teachers are not exposed to the law. Only the principal she admits do posses some knowledge on it.

Teachers are given training in preventing and minimizing disciplinary problems but it is not the main agenda in any staff development program for the teachers. The school she says also has a clear crisis procedure for responding to violent incidents that occur in the school. Everything is written down, printed and a copy is given to all teachers.

4.6 PRINCIPAL OF SCHOOL F

The principal of this school has held the post of principal for the last two and a half years (since 2001). This is also her 30th year in teaching and serves as principal to a
school with around 1051 students which compromises of all girls. These students mostly come from lower middle class families.

4.6.1 Negligence

As a principal she finds that teachers will be liable for using defective equipment as it is harmful to the students and it will injure the students. She also says that at the end of the day the school is the final authority. The respondent will be the headmistress and as such the school will be liable for any injuries resulting from the use of improper and ill fitting equipment.

A signed permission note doesn’t release the teacher or the school of liability for injury that took place during a school trip. She believes that as a teacher you can’t sign away your responsibility by the signed permission note.

Teachers should never administer medicine to students, as allergies are not known. First aid can be administered for immediate easing of the injury. Even then she says that only basic first aid will be administered, as the teachers have no training or qualified to do anything further. She stresses that there are a lot of demands placed on teachers but there is no very little training or support for this.

She strongly believes that there is a duty of care owed to the students and the school must make sure that the equipment used is in proper order for physical education classes and during sports practice. There is a higher duty of care depending on the equipment used especially in teaching the use of javelins and shot put. Teachers should never resort to “remote control” teaching and should be on the field at all times during the lesson. Teachers are briefed regularly during the staff meetings and subject meetings on their areas of responsibility.
The court she says will hold the teacher, the principal and the MOE as the people responsible for injuries sustained by a student in a fight during a supervised chemistry lesson.

4.6.2 Rights of Teachers

The principal says that yes the teacher will be liable if a child is injured while running an errand for the teacher as it is not the child’s duty to buy food for the teacher. If the teacher wants food then she should proceed to the canteen to have her food there.

As long as it during school hours or as long as the school is in session the teacher and the school will be held liable for injuries sustained to a student during an unsupervised sports practice. If it is during a school holiday the child shouldn’t be allowed to be in school.

A teacher will also be liable for writing offensive and degrading remarks about a student. It is thought to be public writing. It is a character assassination on the student and it will harm the student’s future.

A teacher will be dismissed if caught having sexual relationship with a student, as it is not a normal relationship. A teacher’s role is to develop the personality and character of students and as long as the child is a student there should never be sexual relationship between a teacher and the student.

A teacher can discuss controversial issues as long as it is related to the curriculum. The issues discussed must be handled with sensitivity and be discussed in the more senior classes or matured students. This is to encourage students to think, present arguments in a more positive manner as well as to expose students to controversial issues.
4.6.3 School Discipline

As a principal in an all girls' school she says that some of the disciplinary problems faced are noise, truancy, punctuality, cleanliness, theft and a small amount of smoking. The biggest problem is truancy and it is pretty hard to bring down as parents support it. To bring truancy down parents have to change their attitude. Teachers must also put their heart and soul into teaching and caring for their students for any drastic change to take place.

In the case of a student caught bringing weapons to school she says that the discipline teacher will do a full investigation. Then the school will call in the parents. In the investigation the teacher will have to look into the intention of use of the weapon and as well as to look into the child's disciplinary record to see if he/she has committed such an offence before. The school will not hesitate to call in the police especially if it involves gangsterism. A report will also be sent to the local educational department. The Police will be called in also if the child is caught with drugs.

A student will be expelled for truancy (follow procedure), fighting with weapons, theft (caught stealing for more than one time), smoking especially if the child continues smoking in school as the administration doesn't want the child to influence the others to do so and if the child is pregnant but the school will take the child back once she has delivered her child.

As she is a principal in an all girl's school she says that corporal punishment is not allowed and thus it is not a means to punish the girls wrong doings.

4.6.4 Legal Rights of Students

As a principal she doesn't need a search warrant. If they do then nothing can be done. The school rule provides and gives the allowance for searches. Searches are
explained to students but they do not tell them when it will be conducted. Parents are expected to have read the rules and regulation book and sign the acknowledgement. The prefects and the discipline teacher record each searches. Testimonials and school leaving certificates have to be given but the school applies a policy to withhold until the students return the items they owe the school. Withholding certificates seems to be a very effective step for the school to retrieve back school property.

Grades can only be reduced for dishonesty during examinations especially for copying. This procedure cannot be used otherwise to discipline students. Parents are never consulted for any searches likewise for any disciplinary action as well. They are informed on what the child has done and the action that will be taken on the child. The punishment will be carried out with or without the parents consent. Urine testing is also conducted as and when the Health Ministry requests it. The school will take steps to identify students at possible risk but when the testing is carried out they will be mixed with the good students so that they won’t be singled out. Results are confidential only the student affairs supervisor will know which student tested positive for drugs.

4.6.5 Prevention

As every other school there are two teachers on duty for every week. Targeted searches are conducted only if there is information but the search will compromise of the whole class rather than a particular student. Random searches are also conducted and these kinds of searches are directed at all students.

The disciplinary teachers are involved in planning and developing policies to address indiscipline among students. Lately as there is a lot of emphasis on school safety
programs there are a lot more resources and guidelines available for these teachers. There are also district meetings where school discipline teachers are given a lot of information on this matter. The latest development for Wilayah Persekutuan is the joint discipline book for all schools in this particular state. The information is disseminated to all the staff through staff development programs in school. Circulars are also sent out to all teachers on the latest development and such teachers can’t say that they have no prior knowledge on such issues. This particular school principal admits that the school does not have a crisis procedure to respond to violent incidents that occur in schools. As the chain of command exists it is natural for the person at the top of the chain to respond and make decisions as the need persist.

4.7 CONCLUSION

The findings of this study indicate that there is awareness among principals on legal issues related to school management. The degree of this awareness depends on the number of courses that the principals have attended as well as the interest and initiative that they have take to extend their knowledge on this subject. The MOE has regularly conducted courses on awareness of legal issues as part of its on going principal education program. But principals who have been newly elected (principal of school D) have to find their way around in the dark until they attend such courses. Legal awareness is a must and a necessity for principals in managing schools in order to run schools more effectively and smoothly and in the long run to avoid litigation.