

CHAPTER 5

SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.0 INTRODUCTION

A sound understanding of legal knowledge is considered very important for principals of today. It not only gives principals a firmer understanding of the schools' policies and directives to better manage the schools that they are in but also provides them a tool to prevent litigation against them. This section of the study will discuss the findings of the study. The researcher will also discuss the implications of the study as well to put forward some suggestions in order for more research on legal awareness among principals to be carried in the future.

5.1 DISCUSSION

All the principals who took part in the study agreed that they have never been involved in legal action but do agree that they have been threatened by legal action by parents at some time or another. They basically agree that the kind of threats and legal action depends on the personality of the principal in the handling of issues especially when handling disciplinary matters. All agree that these threats have not become actual legal action that is taken against the school. Most of the principals (84%) indicated that they have been exposed to legal knowledge and legal issues through seminars and staff development training that have been organized by the MOE in recent years. All these principals have been exposed to components of legal knowledge but have never attended a course on it. Knowledge on legal issues is only inserted in management or administrative courses and is never highlighted in

seminars that are organized by the MOE for principals. The seminars just touch on certain issues especially when it concerns disciplinary action for students.

While principals indicated a satisfactory response rate on many of the items related to theoretical understanding of the knowledge of the duty of care owed to the students for their physical well being, they are unable or unwilling to execute policies and practices that would ensure that they meet their legal obligations. In this regard many principals have allocated staff to supervise grounds on paper but they have indicated that whether these staff actually do their supervision is another matter all together.

The duty of care owed to students during sports and physical education activities is generally well recognized in schools. The procedure where teachers administer medicine needs to be regularized, as paracetamols must never be administered to students even though it is readily available in the market without prescription. First aid procedures also need to be looked into, as there is no staff available to administer first aid. Many schools in Malaysia seriously lack teachers who are trained in first aid and as such it is difficult to even provide basic first aid if an incident does happen in schools.

Principals with no administrative background previously before accepting the principals position also face a lot of problems and are not entirely sure of the policies and directives that are in place to help manage the school. This is the case of Principal of School D who was just appointed to her post in the last seven months who before this has not had any administrative background prior to accepting the position of principal. More so when she has to manage a school of 2168 students and teaching staff of around 130 teachers without the administrative experience. Based on the number of activities that are undertaken by secondary schools especially as

they involve a wider range of activities for physical education classes and sports activities (javelin, discus, shot put or the hammer), the use of chemicals in science classes or excursions involves a great danger for students and staff alike. As such there is a greater potential for students to get injured or to be involved in accidents and therefore there is a greater potential for teachers to face litigation if all the proper procedures are not followed. Thus principals with no administrative experience will lack the knowledge and exposure in school base experience puts these principals at a considerable risk particularly in advising and making sure that proper procedures are followed in order to prevent any untoward incidents from taking place.

But all these principals do fall back on their teaching experience to handle students and the duty of care owed to the students. All the principals in the study have at least 27 years of experience with the exception of one with only 19 years of experience. Having held a variety of positions over the years as a teacher has helped many of these principals in the running of school on a day-to-day basis. It is essential to be involved in students' affairs as it helps to learn procedures and policies set by the MOE and these experiences comes in handy when they become principals. The emphasis during the teacher-training program is in classroom management and methodology of teaching and there is hardly any emphasis given to legal issues or legal knowledge. What these programs fail to understand is the consequences of sending teachers out into the world of teaching without having this knowledge. With the knowledge it better prepares the teacher to handle issues in the classroom and beyond especially when working with students in harmful situations so that there is better supervision at hand to avoid any unwarranted circumstances.

Most teacher training programs never highlighted negligence issues and the legal rights of students and teachers. As one principal highlighted that her teaching staff

compromises of more than 50% of fresh graduates with no teaching experience, have not been confirmed in their position (mostly between 1-3 years), and have not been exposed to actual situations in schools. The principal finds these teachers are vulnerable and many are afraid to discipline students. They are found to be less committed to the teaching profession. Teachers lack the knowledge to respond in order to solve problems before it arises into a conflict. All teachers need to know how to respond appropriately. The wise principal will be aware of the dangers that teachers face and will make sure that teachers will be equally informed. But the main problem in is the staff development programs where issues like this are sidelined and the administrators who are in the policy planning and development don't give precedence to the legal issues or legal knowledge until the need arises or a situation crops up and escalates into a major media attention.

Principals who are in the boys' school find it very stressful in handling school discipline and negligence issues as it takes up quite a lot of management time. Hence cases like smoking and drugs are given priority. These are considered major cases. The principals in these schools are more meticulous in following proper procedures and policy so that these students will be handled in the proper manner. In these schools a lot of time is given towards documentation as it involves corporal punishment and urine testing all year round. In these schools the major problems takes precedence.

In the girls' school emphasis is placed on minor issues. Many of these girls' schools take into account issues such as school uniform, length of hair, nails and to a certain extent the kind of personal garments that the students use. The searches are more intrusive and the punishment handed out is quite severe. These include temporary suspension of the student until they follow what the school wants. Jewellery and

mobile phones are confiscated and sometimes-proper documentation is not complied until some of these items are misplaced.

5.2 IMPLICATIONS OF THE STUDY

The study is concerned with the professional knowledge required by principals in relation to school law in the daily administration of a school. While they do not need a degree in law but they do need an understanding of areas of law that have an impact on school. This is needed so that principals would be able to implement preventive measures and to put in preventive risk management practices (Stewart, 1998)

As students who are placed in their care, custody and control, school principals have the responsibility for the safety and welfare of their students. The principals are responsible for supervising students, support teachers and must ensure that the school is a safe place to learn. In addition principals are responsible for ensuring that all school policies and directives of the MOE are followed. Principals' professional knowledge should be sufficient to dispel unnecessary or incorrect misconceptions they might have of law as it affects the principalship (Stewart, 1998)

Principals need not be personally liable for physical injuries sustained by students during a physical educational class or during sports practice. If all the necessary precautions have taken place as would a reasonable and prudent school principal then they would not be held liable for the injury that took place. Some of these misconceptions can be dispelled through knowledge on legal issues especially areas in, which affect their daily school management life. It would appear that an appropriate knowledge of the law affecting the principalship would lead to changes in traditional administrative and management practices (Stewart, 1998).

Principals involved in this study have also voiced a need for school administrators and teachers to have some knowledge of educational law. Hence, there is a recognition of the worth of possessing school law information is present. Some of these principals who do have some knowledge on school law issues have expressed that they need to be kept up to date with recent development and information on matters related to educational law.

These principals have also indicated that information may be limited because school principals may not know how to access available resources and most of them depend on informal conversations in order to obtain information. However it cannot be denied that the information acquired is extremely limited.

5.3 RECOMMENDATIONS

The principals who have some background in school law were more likely to value the need for legal information. Hence the need for exposure to school law courses and in-service training is imperative. Trainee teachers at the local universities are not exposed to school law, as there are no undergraduate courses in school law. The number of teachers and principals who are exposed to graduate school law courses are also very limited. In future universities may develop classes in school law for teachers. In the interim, principals can contribute to the content of in-service programs for teachers.

Since education is now considered a right, guaranteed to black or white, rich or poor, normal and handicapped, the legal parameters have become more important to educators (Reglin, 1992). The staggering increase in lawsuits in America is a major indicator that people want somebody to pay when things do not work out evenly or fairly in their lives. This trend is happening on in Malaysia. As such it colleges and

teacher training institutions must prepare educators to cope with legal issues that surround the education profession.

5.4 RISK MANAGEMENT

An essential key to providing a legal defense for the principal lies in the understanding and the use of risk management/avoidance in an attempt to foresee and prevent/remedied problems that are likely to cause difficulties (Permuth, 1998).

An important effort to reduce negligence centers on minimizing exposure in areas where the risk of injury is high. While knowing that legal protection brings an understandable level of comfort and minimizing exposure provides an extra self-protection, an essential ingredient of action to prevent injury to students and self protection against litigation focuses on careful and continuous effort to improve supervision throughout the school.

The following are some suggestions for improved supervision and student safety:

Principals should schedule periodic staff meetings and student assemblies to review the rules and regulations developed for the safety of the students. Staff meetings should emphasize the role of the teachers in supervising students both in the classroom and beyond (e.g. never leaving a class uncovered; the process of notifying the office if a problem occurs; decisions regarding field trips including the authority not to take certain students). The younger the child, the greater the teacher's responsibility (Shaughnessy, 2003). It is critical to fully inform teachers of their role and potential liability for failure to follow these rules. It is recommended that an outside source be invited to share with the teachers the concerns about specific circumstances to support the principal's leadership role in the policy.

Focus should also be on the areas of the school where issues of negligence are most likely to occur and prepare plans for prevention and response if a problem occurs. Classrooms which have potential for injury, physical education classes, workshops, and the science laboratories are some of places where injury to students are likely to occur. Appropriate rules of conduct, the use of equipment, the testing of equipment each class, rules posted and unusual circumstances dealt with (e.g. machines are to be turned off when the teacher leaves the room)

5.5 CONCLUSION

Given the many decisions a principal makes on a daily basis, their judgment can make a difference between a safe and supportive learning environment and an environment filled with fear and anxiety. These decisions, in reality, are what education management is all about. Legal knowledge not only helps principals make better decisions but make it more proactive rather than reactive decisions. Keeping in mind that as our students embrace a diverse culture, religion and personal beliefs, with legal knowledge principals may be able to look into the needs of students and the school staff particularly the needs of teachers. As a consequence the school will be a physically and legally safer environment to work and to learn.