

# Adventist Principals Face



Every school principal faces a variety of complex situations, some involving legal and policy matters. Administrators do not need a law degree to successfully manage such issues, but they do need to understand the major legal issues relating to schools, students, and staff. This article reviews three of the policymaking challenges faced by most administrators. During my tenure as a principal in the Adventist system, I faced every one of these challenges.

At the outset, it must be noted that all of the cases and examples given in this article are from the United States. Thus, they may not be directly applicable to school situations in other countries. However, certain general principles do apply across international borders, such as the sanctity of the contract and the need for adequate supervision of students. Many of the cases cited here provide good policy recommendations, even if the stipulations are not mandated by local law. Thus, readers

are encouraged to make applications to their own setting where possible.

## Negligence

First is the issue of negligence.<sup>1</sup> Schools and school administrators are required by law to ensure that the children under their guardianship receive appropriate care. If a child is injured because the school has not carried out its duty, it is liable to be charged with negligence. Every school has several major duties regarding its students:

**Schools must provide adequate supervision.** This means that minors on school property and participating in field trips must be under adult supervision at all times. The amount of supervision needed is determined by the age and maturity of the children and the nature and conditions of the activity in which they are engaged. Young children at recess need more care than older students in a library study hall. At no time

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should any students be left without adult supervision. If they are and become injured as a result, the school and the principal are liable and may be assessed monetary damages by the legal system.

School personnel are expected to be aware of situations that might be dangerous or could potentially result in an accident or injury to people on school grounds. They are not expected to be able to predict every possible event, but must exercise reasonable care to protect their students. If they know, or should have known, that a child might have an accident or be injured and have not taken action to intervene, they may be considered negligent.

A second duty related to negligence is the need to provide adequate instruction regarding the activities in which the children will engage and anything that might constitute a safety hazard. For example, if children are playing a game on the playground, they should be instructed by the teacher regarding the rules for the activity and how to play safely. Hazardous classroom activities such as science laboratories or shop classes require that detailed instruction be given to the students.

A third duty related to negligence is to ensure that the facilities and grounds are maintained in a safe condition. Broken equipment and hazardous conditions in the classrooms, gymnasium, and school grounds (sidewalks, parking lot, driveway, and playground) should be repaired immediately or removed so people will not be injured. On a regular schedule, the principal should conduct a systematic walkthrough of the facility and grounds to identify any potential safety hazards. Lack of money is not a defense to charges of negligence if the school has failed to remediate unsafe conditions in a timely manner.

### Student Discipline

Another broad area of the law affecting schools is the matter of contracts. In public schools, the administrator's relationship to both teachers and students is shaped in large part by constitutional provisions. In the Adventist school system, that is not so.<sup>2</sup> Rather, the school (or conference) has a contractual relationship with employees and the parents who enroll their children.

Contractual issues are a factor to consider when discipline



becomes necessary. If the school does not handle disciplinary matters correctly, it may be charged with breach of contract. The Adventist principal, who functions as the chief administrative officer of the local school, is on the front line when it comes to contract enforcement. The student handbook defines the contract (enrollment agreement) between the school and students (if adults) or students' parents (for minors). It should specify the rules of behavior in a clear and concise manner and also indicate the appropriate discipline that might be applied, especially if the infraction could result in suspension or expulsion from school. The process that is available for a parent to contest a disciplinary decision should also be spelled out in detail in the school handbook. Both parties who enter into the contract—the parent/student and the school—are bound by its specifications; thus the principal must make sure that it has been carefully crafted and is followed in every detail.<sup>3</sup>

Two recent court decisions illustrate the importance of carefully complying with the provisions of the student handbook. A female student was expelled from a private school in New York<sup>4</sup> for repeatedly uttering the phrase “shut up” on the school

grounds. The school's rules and regulations, which were part of the enrollment agreement, authorized expulsion only in situations involving violent behavior and use of illegal drugs. The court found that the school had breached its contract and awarded monetary damages to the parents because the school had not followed its own rules.

An Alabama parochial school<sup>5</sup> expelled three female 9th-grade students who had taken nude pictures of themselves and sent them by e-mail to a male student, who disseminated them to other students. Two parts of the school policy manual were at issue here: (1) the girls' activity, which occurred outside of school hours and off-campus; and (2) the nature of the expulsion process. The policy manual specifically stated that the school's interest in student behavior extended beyond the school day, and that the institution expected students to behave "within the framework of Judeo-Christian beliefs and values." The school thereby established its authority to expel the girls for behavior that occurred outside of school hours and off the school premises.

The second issue was the nature of the hearing afforded the girls and their parents before the expulsion decision was made. School policy placed sole authority for such decisions in the hands of the headmaster, who had provided the necessary hearing within the process provided for in the policy. Thus, the school was upheld in expelling the girls. It had not breached its enrollment contracts with the students' parents.

### Discipline of Employees

No one is surprised that principals must, at times, administer discipline to children. However, most principals have not given much thought to the possibility of having to discipline adult employees. Here, the legal issue revolves around the nature of the employment contract. While in the Adventist system, teacher contracts are usually written by the conference, the local school principal is the one who has to enforce their provisions, including the discipline of employees. Most union education codes include detailed procedures as well as a listing of behaviors that are grounds for discipline and/or termination of the employment contract.<sup>6</sup>

**O**utside of the United States, principals should consult with legal counsel regarding the applicable laws in their country. Likewise, principals in the U.S. need to be aware that among the 50 states and territories, there is some variation in laws affecting schools. Therefore, administrators must inform themselves regarding the specific laws within their area.



Terminating an employee's contract is one of the most difficult aspects of a principal's work. Yet it is sometimes necessary to maintain the integrity of church schools. While the process is somewhat complex, employee discipline can be reduced to two simple rules: **Know the education code, and follow it in every detail.** An Illinois case illustrates this quite well. A private school had terminated a teacher's contract for cause, but had

not held a formal hearing, although the policy required this step in cases where the school sought to fire an employee. The court ruled that the school had breached its contract because a casual conversation in the hallway did not qualify as a formal hearing.<sup>7</sup>

It is very easy to ignore an employee's minor infraction of one of the rules in the education code. However, when the principal allows such behavior, it creates the assumption that the rule no longer applies. It becomes very difficult, from a legal perspective, to suddenly enforce a rule against one teacher when other teachers have been allowed to break that rule. A better response is for the principal to consistently enforce the rules in the employment contract and the education code. This will require tact and managerial skill on the part of the principal, as well as appropriate supervision of and documentation regarding employees' work.

### Child Abuse and Neglect

A final legal issue, and one that I as a principal found very difficult to deal with, was the matter of child abuse and neglect. Throughout the United States, teachers and school administrators are required to report to the appropriate public authorities any suspicion of abuse or neglect of children in their care.<sup>8</sup>

The reporting process varies from state to state. In some cases, school personnel are to report to the local police; while in others, they must notify child protective services, which is a part of the state welfare agency. Principals should be aware that the law requires them to file a report whenever they suspect neglect or abuse, whether or not they have proof.

This is a very difficult matter, particularly within the closely knit Adventist community. The principal is often tempted to work behind the scenes to investigate whether the charges or suspicions are accurate. Leaders may also try to "work things out" so that the school and the church are not embarrassed by the misbehavior of one of its members. Church pastors are especially nervous about such allegations, as they fear that this may bring public disgrace to the church. The principal should resist any attempts to cover up or dismiss reports of child abuse and neglect, and comply with the law.

A personal experience illustrates this quite well. I had never before dealt with suspicions of child abuse, so I was uncertain about the state requirements. I called a detective friend on the police force in our community and described a hypothetical situation of a girl whose stepfather was rumored to have been molesting her. The detective kindly explained that the state law required me to report even a suspicion of child abuse or neglect. Then he asked me for the name of the girl who was being abused. "Well," I told him, "this is just a hypothetical case." "That's fine," he replied. "Just give me the name of the hypothetical girl."

When I protested that I really wasn't certain whether the girl was actually being abused and that I needed to do more

investigation, he replied, "You are a well-trained school administrator. I am a well-trained investigator. You should administer your school, and leave the investigation to me!" The detective's investigation uncovered abuse not only of the girl in our school, but also of several children in the Pathfinder Club. State law does not require *proof* of child abuse, but merely the suspicion that it has occurred for the mandatory reporting law to apply.

In my experience, administrators will undergo a significant amount of emotional turmoil when they perform their duty to report suspected abuse or neglect. No one will rise up to call the principal a hero; in fact, the people involved will frequently be very angry at the principal for submitting a report. It can quickly become a political nightmare for the principal. However, it has also been my experience that the school is the last haven of safety for children who are being subjected to abuse. If we do not do our duty, further abuse is likely to occur. Thus, the Adventist principal has not only a legal duty to report the suspicion of abuse, but also a moral responsibility.

There are many other areas of the law of which the Adventist principal must be aware, but I have found in my work as a principal that these are the major ones I faced on a regular basis. A successful principal must learn to manage these issues skillfully. ✍



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#### NOTES AND REFERENCES

1. Ralph D. Mawdsley, *Legal Problems of Religious and Private Schools* (Dayton: Education Law Association, 2006).
2. See *Bright v. Isenbarger*, 314 F. Supp. 1261 (N.D. Ind. 1970) and *Flint v. St. Augustine High School*, 323 So.2d 229 (La. Ct. App. 1975).
3. See, for example, *Hernandes v. Bosco Preparatory High*, 730 A.2d 365 (N.J. Super A.D. 1999).
4. *Allen v. Harlem Intern Community School* 862 N.Y.S.2d 696 (Sup. App. Term 2008).
5. *S.B. v. Saint James School* 959 So.2d 72 (Ala. 2006).
6. In most cases, not only teachers, but also support staff have contracts either written or implied. Frequently, they are at-will contracts, which can be terminated with or without cause. Each union has a different process for dealing with them, but usually the work rules and behavior expectations are somewhat similar to those for the teachers and other professional personnel.
7. *Nowak v. St. Rita High School*, 757 N.E.2d 471 (Ill. 2001).
8. Kern Alexander and David M. Alexander, *The Law of Schools, Students, and Teachers* (St. Paul: Thompson, 2003).