

Book Reviews

Schools and Litigation: Developing Legal Policies

Brendan C Nolan and John D Spencer (Editors)

Toowoomba: PCS Publications

1997, pp. 263

ISBN 0 947225 46 3

This book is one of the publications in the series *Foundations in Administration and Management Practice*. It is published and distributed by PCS Publications Toowoomba. The editors are both senior lecturers in the Department of Administration and Training at the University of New England. Both have wide educational experience.

In Chapter One, after referring to the need for teachers to have a knowledge of basic legal principles, the editors note that some schools have ‘gone much further’ and have developed their own specific ‘In-School Law Policy Documents’. The purpose of this book is well summarised at the foot of page 14 in the following terms:

In order to obviate the ‘re-invention of the wheel’, this book is an endeavour to share some of those policy documents and some of the working papers prepared for the corporate development of in-school policy, with individuals and schools having a desire to formulate their own.

Without doubt, it is easier to develop policy from a selection of other people’s attempts and/or successes, than to begin with nothing more than warm desire to fill a need!

The editors later emphasise that ‘this book is not a measured argument about educational or legal theories’, but is ‘an endeavour to address a practical, ‘chalk-face’ need - to provide some thoughtfully developed tools by which school administrators can proceed with some confidence into the realm of legal liability in the educative process’.

Chapter One concludes:

No attempt has been made to ‘sequence’ the documents in some prioritised order - the relevance of each document is the reader’s decision entirely. The aim of the authors is to facilitate, not to direct.

Chapter Two, entitled 'Should One Be alarmed at the Modern Law?', is a short chapter dealing with basic principles of law relevant to negligence and assault, written by a solicitor of the Supreme Court of New South Wales.

Chapters One and Two should be approached with some caution insofar as they purport to discuss basic legal principles. For example, it is disappointing to read (Chapter One) in a work published in 1997 that 'the school has duty of care or is *in loco parentis*'. Chapter Two is only 5-6 pages in length, and unfortunately is not sufficiently detailed and comprehensive to be very helpful to a reader attempting to become familiar with basic principles. In particular, the discussion of assault does not deal adequately with the principles relating to encouraging or consoling contact or those forms of contact which are essential as part of the education process or for the purpose of controlling or managing students.

The core of the book is Chapter Three (pages 27-183), and contains ten policy documents or working papers. Eight of the ten have been developed in primary or secondary schools, and two in education system offices. These policy documents, or working papers, will be of great practical assistance to school administrators and teachers with responsibilities in legally relevant areas (which these days tends to be everybody). Whilst, as the editors note, each school needs to consider its own particular circumstances, these documents will be extremely useful in a number of ways. Firstly, they draw attention to the issues. Secondly, they contain a lot of very sensible, practical advice. Thirdly, they contain a number of extremely useful forms such as Consent Forms, Accident Report Forms, Application for Excursion Forms and Instructions to Teachers and Students. There does not appear to be any other Australian publication which deals in such detail with these very practical 'hands on' issues, let alone one which provides so much stimulus to thought about what should be done in practice, or gives so many examples of documents which can be drawn on to meet the needs existing in particular schools. To that extent, this book fills a very real gap in the Australian literature.

Chapter Four is entitled 'Essential Components of a School Policy on Law' and is written by the Principal of New England Girls' School, who herself holds a degree in law. After discussing the rationale, purpose and aims and objectives of a school policy on law, the Chapter then deals systematically with a range of issues on which school policies should be developed.

The final substantive part of the work is entitled 'Outdoor Education - Aftermath of a Tragedy: Personal Perceptions'. This Chapter was stimulated by an outdoor excursion incident resulting in the death of a Year 10 student and the Coronial Inquest which followed. It draws attention to a number of issues which should be addressed when planning outdoor education activities, and it also provides advice on the handling of critical incident situations. The appendix to the chapter is a very detailed and helpful document entitled 'Guidelines for Crisis Management at The Friends' School, Hobart'.

Whilst other works should be consulted for discussion of legal principles, this book will be extremely useful to school administrators and teachers, as a careful reading of it, accompanied by consideration of the particular activities being planned by those administrators or teachers, will

certainly facilitate outcomes which will reduce the risk of injury and the level of anxiety in those taking on such responsibilities.

Andrew Knott
Hill & Taylor, Solicitors, Brisbane, Australia

Educational Management and the Law

Patrick Walsh

Auckland: Longman

1997, pp. 206

ISBN 0 582 87943 4

Subtitled 'A practical guide for managers involved in pre-school, primary, secondary and tertiary education in New Zealand' Patrick Walsh has provided a timely and most useful text for educational administrators. The text utilises a presentation format which, rather than simply addressing the technical aspects of law impacting on schools, discusses and applies legal principles to a wide range of school settings and situations.

As a professional educator with experience as a classroom teacher, school principal and lecturer in various teacher education programs, the author has been exposed to the ever-increasing influence of aspects of law on the everyday life of the school. As a barrister and solicitor he is well placed to identify and bring to education the legal knowledge needed to lead, management and administer schools.

The text comprises seven Chapters each containing extracts from either statute or common law followed by 'Comment' on how these particular aspects of law impact on school administration. All Chapters have a section - headed 'Points to Ponder' - which contain legally-related problems that have the potential to impact on school policies and practices. The author then provides discussion, in the form of 'Points to Consider', of some of the more important issues arising from the problems which principals need to take into account when managing legal matters.

Chapter 1 provides a very brief overview of the areas of law which school administrators may be involved with and which, as a consequence, necessitate their having an appropriate level of legal literacy. Chapter 2, which takes up over one third of the book, analyses selected areas of legislation relevant to educational practice including statutory provisions to do with privacy,