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# Keeping the lid on legal risk in schools

Understanding different perspectives

Principals we speak to invariably tell us that legal issues in schools are on the increase. What should be done? How can schools best minimise legal risk? It seems that different principals have significantly different points of view about the most effective strategies. This project aimed to explain the different viewpoints.

Teh Mui Kim is a researcher and part-time lecturer at the National Institute of Education, Singapore, and a former lawyer

Ken Stott is Associate Dean in Graduate Programmes and Research at the National Institute of Education, Singapore

Dyan Zuzarte is Head of Legal Services at the Ministry of Education in Singapore

## Introduction

The vast majority of principals we have spoken to in recent times have told us about the changing relationships with parents. They tell us that parents are becoming more knowledgeable and are more willing to pursue their rights. In some cases, they involve their lawyers in seemingly trivial matters. Judging from the forum pages of the local newspapers, Singaporeans are now more prepared to express their concerns openly and critically, and schooling issues feature prominently in these open forums. It is no surprise that principals say they have to be constantly on their guard to ensure they don't fall foul of the law. It was clear from our conversations that things are changing. But what should be done about it? Should these school leaders simply sit back and hope nothing untoward happens? Or should they take measures to at least lessen the chances of becoming involved in legal encounters? As we continued our conversations, principals overwhelmingly stated their belief in proactive strategies to reduce legal risk. However, their stories about what should be done appeared to be quite different. There was no one uniform answer to the question: what should be done in our schools to help minimise legal risk?

Armed with that question, we set out to make sense of these different stories. We collected many tens of ideas about the types of strategies that principals thought would be effective. Then we used those ideas to enable principals to construct their own opinions about the best strategies to cut down the chances of legal action. On the face of it, there were countless opinions, all put together in unique ways. However, we used a tool that helped us to pull out common themes and to summarise the key points of view in a meaningful way.

## A changing context in Singapore

Principals are more accountable than ever before. As schools gain greater autonomy, principals find themselves dealing with specialist concerns like financial, contractual and family matters. Contrary to what many believe, though, the answers to problems can't always be found in the instruction manual.

As we look at other countries, we can see things happening that appear to parallel developments in Singapore. For example, there is growing concern abroad about corporal punishment, negligence in schools, sexual assaults by teachers and bullying by students. Aren't those the issues that have surfaced in Singapore?

## Findings

Using an unusual technique called Q Methodology, we gave 47 educators (mostly principals and senior MOE personnel) a range of statements about what should be done to avoid legal risk and asked them to rank order them in order to produce their own, individual points of view. We then used special software to analyse these separate opinions and to reduce them to a few 'summary' opinions. It is these summaries – or, better, prevalent viewpoints – that we reproduce below. There are four in total and we have given each one a name in order to indicate the key themes within it.

### Viewpoint 1: The "Training" Solution

The best way of reducing exposure to legal risk in the school is to ensure people receive adequate training. All appointment holders – principal, vice-principal, heads of department, senior teachers, discipline master, administration manager and others – should be trained in how to avoid legal risk, and NIE should include legal instruction in both its leadership programmes and its pre-service programmes. However, it is of critical importance that leaders are well trained, and principals, therefore, should be the first to receive instruction. Teachers should also be trained to appreciate the correct course of action in any given situation, and training in mediation skills should be given, because increasing arguments amongst parents and teachers can lead to legal consequences. The training process can be supported by events such as conferences, a Principals' Forum, staff meetings and student assemblies.

All these training strategies and events should be complemented by other effective strategies, like giving advice to young teachers early in their careers, making sure teachers and pupils are conversant with behaviour policies and disciplinary procedures, and the principal giving constant reinforcement about the things teachers do that have legal implications.

There is no point in wishing the good old days could return, because we are in a vastly different environment

now. Nor is it possible to look to the government or MOE to protect us. Experience, however valuable, is no substitute for training, and we cannot rely on familiarity with the Principals' Handbook to sort out our legal issues. Rather, we should provide the right training, spell out the correct procedures, and give staff the skill to develop good relationships between students, parents and teachers.

#### **Viewpoint 2: The "Guidelines and Leadership" Solution**

The optimal way of managing legal risk is by ensuring systems, processes and broad guidelines are in place. Principals should spell out behaviour policies and disciplinary procedures to teachers and pupils, and make them aware of the correct courses of action. Principals should also constantly reinforce them, and should publish safe working guidelines and inform all those involved about them, because more and more outsiders are becoming involved in school life. Staff meetings and student assemblies to review safety rules will also help, and the school should identify the particularly dangerous problem areas, like PE facilities and workshops, and then monitor them closely. Standard Operating Procedures (SOPs) will help in averting risk, and schools should identify hazards and assess the risk of accidents occurring. These assessments should then be carefully documented.

The real key to running a relatively "risk-free" school is to have a strong principal, one who will give clear instructions and ensure compliance. As well as having broad guidelines, there should be some training, particularly for the leaders in the school (with principals being the first to receive training) and NIE can help us in this training by including law in its leadership programmes. The training should include mediation skills, because there is increasing incidence of disputes amongst and between teachers and parents. Nurturing good relationships, therefore, between students, teachers and parents will enable the school to work things out before situations get out of hand.

Even if we work on the principle of keeping the children's best interests at heart to guide our actions and decisions, that is not going to help a great deal. We should not expect protection from the government or the MOE. Similarly, the calibre of teachers and teaching applicants is of little influence: with good strong leadership, though, and some sensibly thought-out guidelines, schools should be able to both manage and possibly even avoid legal risks.

#### **Viewpoint 3: The "Relationships" Solution**

The key to managing legal risk lies in the quality of human relationships. Schools should, for example, keep in regular contact with parents and keep them informed, and should look after the welfare of teachers. Also, if educators keep the best interests of children at heart, they will lessen the chances of legal risk. Some training too in mediation skills will serve to enhance relationships.

Despite teachers making it clear to students what the expectations are, students sometimes do not meet those expectations, so they may need to be reminded of the consequences they face from time to time.

Some understanding of the law is useful and, indeed, principals should be the first to be given such knowledge, but there is no need for large scale training, such as NIE training for leaders and trainee teachers, and training for teachers and appointment holders (including cluster-led training): these are not the most effective strategies. Supervision measures, Standard Operating Procedures (SOPs) and rules are useful defence mechanisms, only when relationships fail, so they are not the best ways of avoiding legal risk. Strong leaders can be suffocating if they simply issue directives, so they too are unlikely to be the best solution. The government might do more to protect teachers and schools from the consequences of an increasingly litigious society, but in the end, the most effective strategies are those that are designed to nurture good, meaningful and sustainable relationships – characterised by common sense and sensitivity - amongst parents, students and professional educators.

#### **Viewpoint 4: The "Blend" Solution**

We have to implement a judicious blend of strategies to avert legal risk. Good relationships between students and teachers, and regular contact with parents, combined with a concern for the welfare of teachers, form a key platform for success in keeping things under control. Relationships can be enhanced if educators have training in mediation skills in order to cope well when things go wrong. An MOE conference or Principals' Forum would support the training strategy, and the key appointment holders should be the main recipients of training in legal issues.

While schools can adopt a range of effective strategies, the government should play its part by introducing legislation to prevent schools, teachers and principals from being sued, as this would be a major source of support in reducing the fear generated by legal risks. The MOE too has a significant role, for it can give clear advice and publish it, so that schools have a ready source of reference. Better still, a Legal Helpdesk would be of great help.

Other strategies include identifying the major accident hazards, the problem areas, like PE facilities and workshop

areas, and then monitoring them; and holding staff meetings and student assemblies to review rules. This information can be reinforced by reminding teachers of the major risk areas of school activity. One more strategy is to catch teachers early in their careers and give them good advice about legal matters. There is no way we can make the school a "risk-free" zone, and there is no point in letting events reach the stage where we need to draw on the help of lawyer friends and alumni to get us out of difficulty. The Principals' Handbook is not the answer to avoiding legal risk, and we cannot rely on our common sense, sensitivity and honesty, nor on our predilection for the best interests of children: worthy attributes though these are, the harsh realities of contemporary life in school calls for a realistic range of strategies to avoid legal incidents.

We can see that some interesting themes emerge from these stories. The first viewpoint is largely about the need for training, while the second is about systems and procedures, combined with strong leadership. The third viewpoint emphasizes the need for strong relationships, but also brings in the role of government in setting legislative standards, while the fourth one focuses on a range of strategies, and emphasizes the need for government and MOE to play their part.

### So what?

We know that, amongst the population of principals, there are four dominant stories about what should be done to avert legal risk. We also know that most principals' opinions will be located around one of these viewpoints. But what is the point of this analysis? To start with, it is good to understand the points of view better. Too often, people's opinions are reduced to meaningless abstractions, whereas our research has thrown light on the complex nature of points of view.

Second, by understanding points of view, we can better communicate with people. For example, there is little point in extolling the virtues of training with someone who adheres to the relationships solution. They simply won't buy the arguments. Thus, this understanding enables us to 'connect' with different people. The message for policy makers is clear: if you

advocate a particular line of argument for dealing with legal risk, you may be speaking to only one group of principals, while others may be dismissive.

Whether one accepts that position or not is immaterial. What is more important is that we have a deeper understanding of the points of view that people dearly – even passionately – hold. Once we can accept that viewpoints are an amalgam of different elements and are usually complex, we are on the way to understanding people themselves. Sadly, much of the research denies people of this depth and accords to them merely superficial and reduced viewpoints. Perhaps our research has shown – if nothing else – that the thinking and formed opinion about facing up to legal issues in schools is as complex as the people who hold opinions. There may be many different reasons for principals failing to provide what we consider to be 'adequate' training for their staff. Their views may be more consistent with the relationships solution, for example. If policy makers think that their 'models of opinion' are the only ones and that there is a linear relationship between intent and action, then they may be disillusioned to find that the linkage is less than predictable.

Understanding, then, is vital. Apart from policy makers, when school principals read this, they too will have a better understanding of the different ways in which legal issues in schools can be viewed. In fact, one way to view the managing of legal risks is to see it as a two-stage process, comprising avoiding legal risks at the outset, and knowing how to deal with legal issues, should they arise, as they inevitably do. And if this study leads to more astutely formed strategies for making our schools better and safer places for our children, then our efforts will be aimed in the right direction.

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