

## Legal Issues in Seventh-day Adventist Schools

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Keeping students in for detention? Showing up late for recess supervision? Students hanging around long after school is out? No big deal? Think again! Legal issues in Seventh-day Adventist schools have become increasingly important over the last two decades. Seventh-day Adventist teachers are not immune from liability or prosecution because they work for a private system. Yet few teachers are well-educated as to their legal responsibilities and rights.



Laws in Canada are divided into two main categories: criminal and civil. Criminal law is determined by federal law, but civil law is a provincial responsibility. School legal issues are usually civil and can be further broken down into two categories: tort law and contracts. For teachers, committing a tort means that the teacher did something he or she shouldn't have done that caused injury to a student or the teacher didn't do something he or she should have done that resulted in injury to a student. To put this in even plainer English, I'll give you a few examples. Keeping a student in for detention for not doing homework could end up getting you charged with false arrest and imprisonment. A student simply believing you were going to hit him can get you charged with assault. Showing up late for recess supervision and discovering a student already injured can get you charged with negligence.

Some practices seen in Seventh-day Adventist education over the years could put both teachers and their employing organizations at risk. Transporting students by private car can pose problems for teachers. If students are not seat belted, a school board could be held liable for personal injury damages. A teacher transporting students in his or her own vehicle without principal or board consent could also be personally liable. Another area of possible litigation is supervision. Parents in Seventh-day Adventist schools often drop students off at school early and pick them up late. If parents are not informed as to proper hours of supervision, teachers may be held liable for injuries occurring when students are at school long before or long after usual hours of school operation. Negligence can also occur if students are not properly coached on how to use physical education equipment or if teachers do not know how to perform emergency first aid.

Seventh-day Adventist schools could reduce the risk of liability with a few well-chosen actions and directives. For instance, few Seventh-day Adventist teachers have basic first aid qualifications. This could be addressed at a teachers' convention. Publications, such as *Edulaw*, should be made available to teachers to help them realize their responsibilities. Teacher handbooks should have a section outlining procedures to follow which would reduce liability in the area of torts, a list of do's and don'ts. Times for supervision of students posted and listed in the handbook could reduce liability for before and after

school injuries. Beyond that, a question-and-answer period at teachers' conventions dealing with legal issues in the various provinces could be just as beneficial as the usual Q and A dealing with teacher salaries and retirement benefits!

Beyond torts is a whole other area of some interest to teachers and their employers--contracts. Suspension and dismissal are part of substantive rights. Procedural rights are the rights of employees to be treated in a certain manner by their employers--a fair hearing and natural justice. The Seventh-day Adventist Church in Canada (SDACC) Education Code has a whole section, the 4000 section, dealing with employment issues. Teachers should become very familiar with this section in order to better know their rights and responsibilities as employees.

An interesting note for teachers employed in the Seventh-day Adventist system is that teachers can be dismissed for "denominational cause." This can mean restrictions on privacy and lifestyle rights which do not apply to public school teachers. However, at the same time, Seventh-day Adventist schools should re-evaluate the practice of employing non-Seventh-day Adventists in teaching positions. While not a common occurrence, this has happened often enough that it is a cause for legal concern. Already in Canada, a teacher seeking full-time employment in a religious school was considered discriminated against when she was refused the position, as she had already been working part-time in the religious school. Hiring a non-Seventh-day Adventist is contrary to the SDACC Education Code (Section 1406:98) but if this is ignored in practice, I doubt it could be used as a good argument to exclude non-Seventh-day Adventists.

All in all, the whole topic of legal issues in our Seventh-day Adventist schools is a fascinating one. In this new litigious age, it is very necessary for teachers and administrators alike to be aware of the legal requirements and case law in their provinces. Doing what seems morally and ethically right and conscientiously doing a good job are likely to help one stay on the right side of the law. Doing what seems expedient at the time can be disastrous!

### **Resources:**

- Mackay, A. W. & Sutherland, L. I. (1992). *Teachers and Law: A Practical Guide for Educators*. Toronto: Emond Montgomery Publications.
- Proudfoot, A. J. & Hutchings, L. (1998). *Teacher Beware: A Legal Primer for the Classroom Teacher*. Calgary: Detselig Enterprises.
- Seventh-day Adventist Church in Canada Office of Education (2000). *Education Code*.