

Dealing with litigious parents

Dennis Sleigh explores the growing number of parents that threaten to sue



When I went to school years ago, and my teachers punished me, I made sure I didn't tell my parents; they would have felt a second punishment would have been in order – for annoying the poor teachers. Today, if a teacher admonishes a child – even by a raised voice – many parents think it is the teacher who should suffer.

Times have certainly changed. The mood was predicted 30 years ago, in the classic text on education law *Australian Schools and the Law* by Knott, Tronc and Middleton. There we read: 'There is today throughout the community a growing awareness of legal rights and an increased readiness for individuals and groups to pursue these rights.'

It is interesting to reflect on just why things have turned out this way. I would suggest there are three reasons for the popular enthusiasm for litigation. They are: a confusion over rights and responsibilities; a 'cotton wool' approach to rearing children; and an undue enthusiasm on the part of many teachers to take on duties outside our reasonable role. Let's consider each of these.

Rights and responsibilities

Without suggesting that I lived in a golden age when children were perfectly behaved (my own teachers would roll around laughing at that suggestion). I think that in the past there was a deeper respect for individual responsibilities than one sees today. We might not always have honoured these responsibilities but at least we were aware that we were breaching legitimate expectations when we did the wrong thing. We had, if you like, a social conscience.

Today, the emphasis is on rights, rather than responsibilities. A large number of children at

school today know their rights and are not slow to remind teachers of this fact. This is not a phenomenon found only in senior classes, it is apparent at least from middle primary. The reference to 'my rights' might be jocose on some occasions, but it reflects a level of conversation at home that is worrying, to say the least.

In *Australian Teachers and the Law*, my co-author Dr Keith Tronc warned our readers: "It is now not uncommon for children, even at primary school level, to stand up in class, wave a copy of the *Education Act*

and *Regulations* at the teacher and say, "If you do that, we will sue you." This is a new phenomenon on the Australian scene." That was written in 1989. Today, the situation has become critical. Sadly, many of these bush lawyers have read only about their alleged rights, not their duties.

Cotton wool child rearing

A second factor encouraging parental litigation is the modern view of child rearing. Responding to constant media emphasis, many parents think children today are more threatened than in the past. This assessment is debatable, but many parents are taking no risks. They have lost trust in the traditional social structures – church, the legal system, the local neighbourhood and the education system – and they seem to be on their guard lest anyone take advantage of their children.

This is not hard to understand, but there has been a huge over-reaction. Consequently, many children find themselves brought up in an environment where they are never exposed to any risks. How sad. They are not allowed to play in the local park – if the Council, fearful of litigation, has left anything there to play on. They are not allowed to walk down the street by themselves in case they are molested by paedophiles; they cannot ride their bikes without wrapping themselves in protective gear... the list goes on. Small wonder someone once said that children today suffer from insufficient neglect.

Because of this over-protective emphasis, some parents are more cautious about committing their children to the care of teachers. They watch with eagle eyes to make sure that their children are not been disadvantaged in any way and if the suspect that their child is missing out on something

that others are getting, they are quick to complain about how unfair it is.

Over-reaching our roles

A final factor that has aggravated the situation is our enthusiasm, as teachers, for taking on extra duties related to a child's education. Long gone are the days when we saw ourselves just as the transmitters of academic knowledge. Now, though we sometimes complain about it, we have taken on the roles of social worker, family counsellor, curriculum developer, sex and drug educator, surrogate parents, friends and advisors... again, the list goes on.

Our motives in taking on these tasks were noble. We wanted to serve the children committed to our care, simply because we knew their needs were too often being ignored elsewhere. Sadly, instead of inspiring society to resume its correct role in bringing up children, teachers soon became permanent custodians of these tasks. Inevitably we fail in some of them because we take on too much – and then the parents demand to know why we have failed them.

A caution

Not all parents, of course, are litigious; indeed the vast majority are both sensible and very appreciative of our efforts. However, for some parents, litigation appears to be the only way they can obtain justice. If schools do fail the children, there must be some accountability process. I have no problem with this. On the other hand, if an unbridled enthusiasm for litigation continues, society as a whole will suffer. Teachers who are hampered in doing their real job could easily avoid legitimate and potentially enriching programs that would benefit their pupils. This would be most unfortunate.

What we need today is a circuit breaker. Teachers must be accountable, but so must parents. Teachers must act responsibly and encourage their colleagues to do so whenever necessary, but parents must recognise that as a profession, we can do only so much. To ask for more is unreasonable and to sue us for such failures is insane. We are, after all, partners in the glorious vocation of teaching.



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