



President's Comment 14

20th May 2010

Dear Colleagues

Search & Seizure In Schools A Legal Limbo!

The recent stabbing of a teacher at Te Puke High School and the many searches for drugs at schools and hostels highlights the uncertainty of the law for Principals on the issue of search and seizure.

Legal opinion is divided on whether schools have the power of search and if so, under what conditions. There is no specific law which permits schools to conduct searches, in fact, Section 21 of the Bill of Rights Act specifically protects people (including students) from unreasonable search and seizure. There are also no decisions from New Zealand Courts on the matter.

The Ministry of Education has provided some useful guidelines. They conclude however, by saying:

"In the absence of a Court Ruling, schools find themselves in the uncertain position of leaving themselves open to a claim under the New Zealand Bill of Rights Act or for a civil claim of trespass to the person..... It is inevitable that at some point, a student will bring an action in the Court, either in trespass or as a breach of the Bill of Rights".

(Sarah Bush: Search & Seizure, Educational Leaders)

It is accepted that the MOE cannot give a definitive answer and each case turns on its facts. It would be useful however, if their Legal Division could develop a generic school policy and undertake to provide support to the unfortunate school who lands up in Court as the test case.

Although the number of students bringing weapons and drugs into schools is a tiny minority, it will be increasingly difficult to assert that our schools are weapon and drug free without the law enabling us to conduct searches within tight boundaries. My own view and that of other lawyers, is that schools do in fact have a power to search and that it may be exercised. I will take the matter up on your behalf with the Minister and Secretary of Education. In the meantime, I have spoken to Jan Breakwell, head of the MOE's Legal Division. She has asked for scenario's in schools in relation to search and seizure, which may form part of general advice to schools. Please pass these on to Ros at the SPANZ Secretariat.

Our thoughts and prayers are with Alan Liddle of Te Puke High School and his community.

Previous Comments

Comment 13 - 13.05.10

Health & Safety Guidelines, Aspiring Principals' Programme, 2011 Symposium.

Comment 12 - 06.05.10

Initial Teacher Education (ITE), Trade Academics, Principalship Growing a Thick Skin, PA Conference.

Comment 11 - 29.04.10

Violent Crime & School Bullying, Review of University Entrance, Sound Advice from a Judge, Working Voice & STA, School Balls.

Comment 10 - 22.04.10

Mangatepopo Gorge Tragedy Coroners Report, Technology Curriculum, National Standards, SPANZ Union .

Comment 9 - 31.03.10

BOT Elections, Jurisdiction over Students After Hours, Monster Parents.

Contact Us

PO Box 11541
Ellerslie Auckland 1542

Phone: 09 571 2233
Fax: 09 571 2244

Email: office@spanz.school.nz
www.spanz.school.nz

Meeting with ERO

A couple of weeks ago, the Executive had a productive meeting with senior managers in the Education Review Office.

We were reassured by them that any pre-existing complaints about schools were dealt with in an open and transparent manner and that Principals were always given a full opportunity to respond to them. (If this is not the case please let us know).

We requested that the practice of ERO officers speaking with the staff in the absence of the Principal and senior management team be reviewed. We submitted that it could be seen as a low trust model and was unnecessarily divisive. The information obtained at these meetings can be sourced by other means. They have undertaken to review it.

When Is The Time Right To Retire?

This is a vexed question with an ageing population of secondary school Principals. The following however, may assist.

It is time to think about retiring when:

- You believe that NAGS are staff members out to get you;
- You insist that staff wear name tags for a more 'professional look' but in reality you can't remember their names;
- You think a 'podcast' is something they do in the horticulture department;
- The photo you supplied to the media starts to look like your granddaughter/ grandson;
- You ask for milo at evening Board meetings;
- You can't figure out why all these children keep coming to your place of work each day.

Kind Regards



Patrick Walsh
President