

LEADERSHIP UPDATE

Volume 6

A publication for Alberta's school administrators

Number 7

To Do or Not To Do

Administrators' Legal Obligations to Students, Teachers, Parents: Boundaries, Investigations, and Disclosure

April 27, 2010, 1100–1700

Hyatt Regency, 700 Centre Street SE, Calgary

The ATA is once again offering a half-day seminar on administrators' legal obligations to students, teachers and parents for school administrators and central office administrators. School administrators are required to practise within a complex set of employment, professional and social parameters set out in various laws, regulations and policies. Administrators need a solid understanding of the basic legal principles applicable to educational settings and the lawfulness of the decisions they make in the

course of operating their schools. Because society has become more litigious, administrators need a basic understanding of how the law affects them and those with whom they interact every day—students, teachers, central office staff and parents.

This seminar is designed to help administrators become more knowledgeable about their legal obligations. Presenters from the ATA and its legal counsel, Field LLP, will provide information about the following issues within the framework of the law as it is today:

- Criminal Code section 43
- Allegations and Investigations
- Human Resources Issues for Administrators

There is no charge for registration for members holding the highest level of Association membership available to them.

If you are interested in attending this seminar, speak to Konni deGoeij or Leslie Kaun at Barnett House, no later than Monday, April 19, 2010, or e-mail leslie.kaun@ata.ab.ca.



**You never
change
things by
fighting the
existing
reality. To
change
something,
build a new
model that
makes the
existing
model
obsolete.**

**—R Buckminster
Fuller**





Q & A

GORDON THOMAS,
Executive Secretary

Q: At our school, for some of our extracurricular teams, we have volunteers, parents, and teacher assistants coach and supervise. Is there a problem with this?

A: The authorization of certificated or noncertificated staff and community volunteers as supervisors at extracurricular events raises questions of

1. standard of care,
2. indemnity or liability for the supervisor, the principal and the board, and
3. necessary approval procedures and criteria.

Teachers, by virtue of being professionals, are held to a higher standard of conduct than the general public and to expectations of high standard of care—that of the careful and prudent parent. When a teacher is in charge, it is clear what standard of care can be expected. Of course, for teachers, as well as for volunteer supervisors and coaches, the standard of care expected rises when the person has taken additional training or qualifications—for example, first aid, coaching levels, etc.

The *School Act*, in section 20 (e) and (f), puts much of the responsibility directly on the principal to ensure that both the duty of care to students and the standard of care for students are met. In addition, section 18, in the stem and in (f), clearly establishes parameters of teachers’ involvement in supervision “under the direction of the principal.”

The standard of care provided by community members, including parents, varies. How does one even explain the required standard of care to a short-term volunteer supervisor and how does one monitor and measure the standard of care actually provided by a volunteer supervisor? At the same time, the standard of care that must be maintained by the school board and the principal does not vary even in their absence. The primary obligation for provision of adequate supervision remains on the principal. The school board’s liability, should an incident occur, arises from its ability to control the situation by determining the selection of acceptable supervisors. “Any parent” is likely insufficient. While most are able and appropriate supervisors, some may have lengthy histories of criminal actions or in other ways be likely to expose a student to danger.

Sections 60(3)(a) and 61 authorize the board to make rules permitting the use of outside supervisors and, presumably, some criteria for the selection of appropriate personnel. In the event that an incident occurs, vicarious liability for the actions of any volunteer supervisor would flow back to the principal and/or other designated employee selecting the volunteers and to the board. At the school level it may be quite difficult to remove the shared liability for the principal in the event of any incident giving rise to a claim. The term *incident* is used because it is not inconceivable that, through negligence or poor judgment, students could be exposed to a variety of risk situations including sexual misconduct, physical injury or accident. Should any incident arise, the quality of care provided and the selection of supervisors will be subjected to intense scrutiny.

Protection, as always, lies in covering off what is foreseeable. When teachers supervise, the standard of care is known and liability thereby decreases even when they are assisted by volunteers. Using selection criteria for volunteers ensures that some foreseeable risks are eliminated. Having documented acknowledgment and acceptance of standards eliminates more risks and provides protection in the event of a lawsuit.

The Association recommends the following:

1. Volunteer certificated staff should be present for extracurricular activities.
2. If volunteers from the community are used to reinforce or supplement supervision, have a certificated employee available to them at all times.
3. Ensure that board authorization exists to use community volunteers as supervisors and coaches.
4. Ensure that the criteria established by the board are followed in selecting volunteer supervisors and coaches.
5. Ensure that volunteer supervisors and coaches know what standard of care is expected of them and what guidelines they must follow in making judgment calls.
6. Document, document, document. Keep on file a copy of the board authorization, a written statement of the standard of care signed by each volunteer supervisor or coach, and any other documents that board policy may require you to have.

This is not a simple issue. School board policy should exist to clarify the need and use of such things as criminal record checks, affidavits of medical fitness and additional insurance coverage.

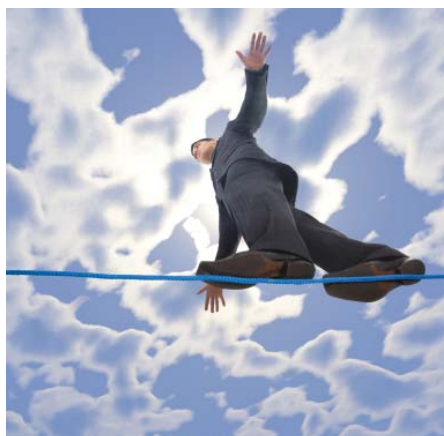
New Workshops for Administrators

Sometimes a school administrator feels like a cat on a hot tin roof when it comes to his or her role in the collective agreement. How does a school administrator walk the fine line between being a supervisor or manager and being a member of the bargaining unit?

Teacher Welfare staff have developed a new workshop presentation to help principals and assistant principals work through issues relating to their collective agreement. Using a series of stories, the 75- to 90-minute session provides information regarding the appropriate role of school administrators in relation to the employer and their colleagues. Specific provisions in collective agreements for administrators and their role as supervisors with co-workers or those in other unions will also be discussed. This is a practical session to help administrators avoid common pitfalls with their many responsibilities.

And what about staff who are concerned about air quality? And how many staff need to be trained in first aid? Who can work alone in the school? Can the principal?

Those questions and many more are answered in the Occupational Health and Safety workshop developed by Teacher Welfare staff to help administrators navigate around



occupational health and safety legislation, regulations and code in Alberta. An overview of the rules for workplace safety will be provided, as well as issues that arise for teachers and administrators. The session explores steps that teachers and administrators should follow when there are unsafe working conditions or if teachers suffer from an illness because of the workplace. Participants work through three scenarios to hone their problem-solving skills and expertise in dealing with occupational health and safety issues.

To book either of these workshops at your next administrators' meeting or PD event, contact Teacher Welfare at 1-800-232-7208. There is no cost for these workshops when they are presented by ATA executive staff.

Legal Issues for School Administrators (LISA)

April 27, 2010
Hyatt Hotel, Calgary
10:30 AM – 5:00 PM

The Alberta Teachers' Association is once again offering a one-day seminar on administrators' legal obligations. Registration is free for school administrators and central office administrators who have retained the highest level of ATA membership. This year's sessions will focus on section 43 of the *Criminal Code of Canada*, allegations and investigations and HR issues for administrators (sick leave and collective agreement interpretations, leaves of absence, principal and clerical/custodial staff). An open forum for a question-and-answer period will follow.

For additional information or to register contact Leslie Kaun at 780-447-9410 (Edmonton), 1-800-232-7208 (elsewhere in Alberta) or leslie.kaun@ata.ab.ca.

To find archived issues of *Leadership Update* go to www.teachers.ab.ca and click on Resources for School-Based Administrators.

Feedback is welcome. Please contact Konni deGoeij, associate coordinator, administrator assistance, Member Services, at konni.degoeij@ata.ab.ca.