

# Teachers - Are you protected? - An editorial from a Science Teacher

By Tony Dean

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There has been a disturbing trend in education in which disputes between parents and schools are being resolved in the courtroom rather than the classroom. A good lawyer may be as important as good grades. Unfortunately, teachers are getting caught in the middle of this and education suffers.

The decision in *Ferraro vs. Board of Education of the City of New York* (1961) indicated that courts will hold school personnel liable if a student attacks and injures another student and the teacher should have known that such an attack or aggressive behavior was possible, and, therefore could have prevented the injury. On the other hand, a teacher can be sued if they restrain a student even if the case is without merit.

In *Cohen vs. School District* (1992), a special education student with learning disabilities, behavior problems, and known violent tendencies was mainstreamed without adequate supervision. The student attacked and injured another student without provocation. The parents of the injured student sued the school and said the student's rights were violated. The court held that placing a student with behavior problems in a general education setting is not unconstitutional. In other words, it is not a violation of law to put a potentially violent student in a classroom with other students, however such a placement may result in school officials being held liable if the officials knew that a student with disabilities was violent and placed in the general education classroom without adequate supervision. When funds are short, it is easy to overload this burden on the classroom teacher who must also face the liability.

Consider the Oklahoma mother who sued her daughter's high school because the teachers required students to evaluate one another's assignments. Now the prospect of any peer evaluation of student work is at stake.

According to the 1999 survey of the Association of Texas Professional Educators, sixty-three percent of teachers fear being sued. One of the first considerations in planning and activity in a school, is the avoidance of any potential liability.

Costly, legal bills can arise in any court case, even if it is without merit and one case can have a severe financial impact on a teacher. The NEA provides legal limited protection for teachers who are sued if a teacher is ever sued to liability in a case, however more protection is needed. The NEA protection, while very good, does not help you find a competent lawyer nor does it help you prevent legal issues before they arise to the level of a lawsuit.

As a teacher, I believe it is necessary to have teachers advised of their legal rights before hand to

prevent cases in reaching the level of a lawsuit. Since many cases are settled out of court, teachers need legal protection before a case reaches that level. It comes down to this simple point, if teachers are not aware of their legal rights, they simply don't have any. Most teachers are not aware of the results they can get from the justice system in these three ways:

- o As a line of defense when they stand accused or are sued.
- o As a preventative tool to forestall problems and actions against them
- o As a resource to gain a fair hearing for their own grievances.

As a teacher, I believe that hard-working, law-abiding people working in a noble profession should never end up as a defendant in a legal shakedown that could destroy their finances. I knew that if I could not take care of this gap in coverage I would have to leave the teaching profession. It was necessary for me to obtain legal protection in the same way I have health and medical protection.

There are very good forms of legal protection out there and I would urge any new and experienced teacher to get it. Some provide it for a low monthly fee.

We cannot afford to lose valuable teachers from the threat of lawsuits. We need to make sure our rights are protected.

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