

School and the law

A column designed to review some common legal issues for private school administrators and teachers

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One of the eye-catching headlines in the *Newcastle Herald*, 8th February, 2008, read: “Dreadlock Holiday”. It was designed, one would suggest, to entice the reader to continue their reading. Judging from the response to this article, in the media, over the following week, the headline fulfilled its purpose.

This news item reported that Ben, a Year 11 student, was suspended from his school—a private school, when he returned from the summer break sporting dreadlocks. The associated fracas linked to this action suggests it may well be advantageous for school administrators, once again, to review the legal issues associated with school suspensions.

According to *The law handbook*:

Private schooling is based on an agreement between the school and parents, which may indicate the circumstances in which a student can be suspended or expelled. If there is no express provision, there is an implied term that a student will not be suspended or expelled unreasonably.¹

This ‘agreement’ is formalised by enrolment and signing of the enrolment form by the parent, or in case of older students, the students themselves. It is good practice, then, to include on the enrolment form statements that show the school expects the student will act in a manner that does not contravene the school’s *Student code of conduct*. Further, it is also helpful to have the *Student handbook* expand on the *Student code of conduct*, and that it is distributed to parents and students at the time of enrolment.

Because circumstances change from year to year, but enrolment is most often a once-off occasion, it would seem reasonable to issue each student with a new *Student handbook* every year.

As was the situation in the case of Ben—the subject of the newspaper article, there are many situations where the *Student code of conduct* does not directly address the situation. For Ben, the school’s hair policy did not stipulate “no dreadlocks”, but it did say that students’ hair should be neatly combed. Can one comb dreadlocks? Perhaps, to answer this question, we need first to ‘experience dreadlocks’ ourselves.

In such situations, however, what is important for private schools is that the student is granted natural justice. In terms of suspension this means, at the very least,

... that the parents and student(s) be told of the potential of suspension before it occurs; that the parents and student(s) be told of the grounds for the potential suspension; and, that the parents and student(s) have an opportunity to respond before the final decision on suspension takes place.²

This is general advice; and legal advice should be sought in relation to specific matters. It is hoped this information contributes to educators’ considerable efforts in being part of an effective and efficient administrative school team. **TEACH**

Endnotes

¹ Barry, R. (Ed.). (2007). *The law handbook: Your practical guide to the law in New South Wales*. Sydney: Redfern Legal Centre Publishing, p.204.

² Ibid.

“Can one comb dreadlocks? Perhaps, to answer this question, we need first to ‘experience dreadlocks’ ourselves”

Are there topics that relate to school administration and legal issues which you consider are useful and worthy of consideration for “School and the law”, in the next issue of *TEACH*? Please drop a line to the editor: TEACHeditor@avondale.edu.au