

(c) *Commonwealth of Australia v Introvigne* (1981-1982) 150 CLR 258.

New Developments

This section comments on issues that are emerging, are topical, and are a matter of community and parental interest and include, for example:

- New School Education Bill 1997 (Western Australia);
- Student information kit on educational rights from New South Wales;
- Statistical data from New South Wales on school violence;
- Queensland State Ombudsman's report 1997-98 regarding the State school uniform policy
- Queensland's proposed School Uniform Bill 1999 Queensland.

Conclusion

Dr Tronc has prepared a timely and useful adjunct to the emerging field of education law. It is written with his usual readable style and accuracy. It provides a comprehensive guide for legal practitioners and provides excellent detail to commonsense research and draft pleadings. As school principals, educational administrators and classroom practitioners become more aware of the need for legal risk management, this publication will be seen to a most useful guide to sound practice.

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Being Fair: a procedural fairness manual for Australian schools

National Children's and Youth Law Centre

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The National Children's and Youth Law Centre (NCYLC) is Australia's only national community legal centre dedicated to the interests of children and young people in Australia. It advises and represents children and young people and is also actively involved in research and legal reform.

The publication under review draws on: (i) an earlier publication issued by the Centre in 1995 titled “School Exclusion: Student Perspectives on the Process”; (ii) the 1996 report of the House of Representatives’ Standing Committee on Employment, Education and Training titled “Truancy and Exclusion from School”; and (iii) on the Human Rights and Equal Opportunity Commission and Australian Law Reform Commission joint report “Seen and Heard: Priority for Children in the Legal Process” issued in 1997. It also draws on certain other research projects (see page 17) and on legal resources generally.

Part One, “Procedural Fairness in Schools” provides a discussion of legal principles related to natural justice and procedural fairness in a way that would be extremely helpful to educational administrators. The discussion is clear, related to the underlying principles and directed to the school environment. The degree of detail is appropriate for the likely readership.

Part Two, “Alternative Dispute Resolution in Schools” sets out the basic principles for negotiation, mediation (including peer mediation) and community conferencing, and concludes with a brief discussion of how to ensure procedural fairness during alternative dispute resolution.

Part Three, “A Model for Implementing Procedural Fairness in School Decision-Making” is really the heart of the publication. After a discussion of a number of issues of principle the article sets out, in considerable detail, the issues to be considered by persons charged with making decisions which may be adverse to the interests of students. It is important when reading Part Three to bear in mind that it contemplates the more serious decisions, particularly those which may result in enforced absence from school. The publication itself acknowledges at various points that the seriousness of the potential outcome for the student influences the legal requirements and, more generally, the appropriateness of procedural protections to the student. In addition to the orthodox approach there are a number of interesting references to alternative dispute resolution concepts, which should alert the decision-maker to the need to consider whether a disciplinary approach is necessarily the best approach.

Part Four contains a hypothetical example of “how not to do it”. The example itself, together with the seventeen questions about it, provide useful stimulus to thought for educational administrators having responsibility in this area.

Part Five contains a checklist and evaluation which would assist education administrators in reflecting on and assessing their own practices in this area.

Appendices 1-3 provide a summary of the principles of mediation, peer mediation and community conferencing, each set out in a one page table. These appendices complement Part Two on alternative dispute resolution in schools and should be read closely with that part.

Appendix 4 provides contact details for various alternative dispute resolution services.

Appendix 5, “Student and Family Evaluation” is designed to give students and their families the opportunity to give their version of the process. There is much to be said for this as an innovation. A school confident about its procedures and committed to fairness might well benefit from providing to students and their families an opportunity to respond in this way.

Appendix 6 contains a number of comments on the United Nations Convention on the Rights of the Child.

Many school administrators, and others, find the subject of procedural fairness daunting. This publication, written in a readable style (and readable length, bearing in mind the many pressures on teachers and education administrators), should increase awareness of the importance of the central issues, facilitate dealing with them and dispel some of the fear associated with them. Probably the most critical factor in this field is accepting the legitimacy and importance of procedural fairness for students rather than perceiving it as just an obstacle or a burden. It should also be seen as an opportunity for educators to model appropriate behaviour, desirable in all walks of life where important issues arise which have the potential to adversely impact on the interests of others. This point is well summarised in the Preface in the following terms:

“In a country where the teaching of civic community participation and mutual obligation is being urged at the highest levels, such attempts should be viewed as a positive example of teaching by example”

This publication will be extremely useful to schools and educational administrators, and fills a gap in the literature. Decision-makers cannot escape the need to judge what is appropriate in each situation facing them, but guidance such as this will certainly help.

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