Touching the Future: Educators and the Law

Nick J. Scarfo

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Department of Curriculum, Teaching and Learning
The Ontario Institute for Studies in Education
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Abstract

Teachers are perceived by society and in law to be in a position of trust. As a result of the daily interaction with their students, educators have the opportunity to be influential and they are expected to behave in a responsible, ethical and moral manner. Being viewed as a moral compass of society is a significant responsibility and the implications of such a statement are substantial upon not only teachers but also impact on teacher education programs. This study investigates how educational law impacts on beginning teachers in light of the many legal and ethical boundaries that educators will experience throughout their career.

The literature review discusses the delicate balance between an educator’s mission and the requirement to follow policies and procedures; documented court cases, which have an impact on educators; and, finally, the educational law component within the teacher education framework.

Six participants were interviewed in this study of which two are teachers in their first three years of teaching, two recent graduates, a principal and an official with a teacher union who is a member from the Counseling department. All four of the teachers completed a two-year initial teacher education program. In addition, the principal is a member of the Partnership Advisory Council of the program.

Maintaining the delicate balance between an educator’s mission and the law will continue to be a challenge. The direct and indirect statutory rules and regulations which impact on the
education system and the supporting landmark court case decisions clearly bring to question the level of preparedness of teacher candidates and indicate a need to examine the role teacher education programs play in preparing future teachers.

The major themes include the impact of educational law on the professional and personal lives of beginning teachers, the role of initial teacher education programs, and the legal enablers and barriers for educators. The key findings for each of the themes are discussed.

Educators find themselves in a very complex role. The teacher education programs in Ontario need to examine the importance of including meaningful and insightful dialogue about the legal and ethical aspects of being a teacher.
Acknowledgements

When I began researching for this thesis my goal was to highlight the legal and ethical challenges facing beginning teachers but I discovered that this study has done much more. It provides insight into who I am and what I value. Lifelong learning and a genuine desire to challenge myself continue to be an essential part of who I am.

However, no significant task is completed successfully without the ongoing support of others and this academically rigorous task is no exception. I am so fortunate to have the support of family and friends, and to all of them I am deeply grateful.

I wish to acknowledge the support and dedication of Dr. Doug McDougall, my thesis supervisor. His positive reinforcement and ongoing dedication are reflective of his professionalism and his willingness to support my efforts throughout this process. Without his guidance, mentorship and encouragement the completion of my doctorate would have been a much more daunting task.

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Chapter One – Introduction

1.1 Introduction

Teachers focus their energies on making a significant difference in the lives of the students under their care and, by doing so, instill a systemic belief and a marked confidence in our public education system. A realistic vision? Perhaps? A meaningful goal? Absolutely! There are many factors that contribute to this vision, one of which is teacher education programs and the role they play in preparing teacher candidates to fully understand the professional and legal responsibilities associated with being an educator.

Teachers spend a minimum of five hours a day with their students – in some cases, due to a variety of factors including economic pressure—some spend more time than parents do with their own children. Parents entrust educators with the safety and well-being of their children. As a result, educators play a significant role in the cognitive and social development of students and have an enormous professional, ethical and legal responsibility to students, their parents, and fellow colleagues.

Many professions require an informed understanding of the law. Teaching is one such profession. While it may be “easier to think that all educators need to know is how to teach” (Redfield, 2001, p. 5), in reality, teachers are responsible for much more. The teaching profession is a complex and highly demanding vocation. Teachers are not just educators; they are perceived to be counselors, confidents, mentors, and, as such, they provide support for the students under their care.

Teachers are perceived by society and in law to be in a position of trust (Dickinson, 2001). As a result of the daily interaction with their students, educators have the opportunity to be
influential and they are expected to behave in a responsible, ethical and moral manner. Being viewed as a moral compass of society is a significant responsibility (Campbell, 2003).

Society trusts teachers to be both guardians and purveyors of knowledge, truth, and virtue—this is the abstract idea behind the seriousness of breach of trust by educators. Though never far from the moral guardianship idea, trust also transcends this dimension. (Dickinson, 2001, p.15)

The implications of such a statement are substantial upon not only teachers but also impact on teacher education programs. This study investigates the impact of educational law on beginning teachers in light of the many legal boundaries that teachers will experience throughout their career.

In part, laws and educational policies are written to improve educational outcomes and school environment. Redfield (2001) argues that educators must stay current with laws relating to education since school litigation is inevitable. She further states that being familiar with the law allows teachers to act “reasonably and preventively” (p. 6) and limits their liability. Most importantly, being familiar with basic educational law will allow educators to focus on teaching and child development.

In 1996, the passage of the Ontario College of Teachers Act established the College as a professional body that “has a duty to serve and protect the public interest ensures” OCT Act, 1996, s. 3(2)). Thereafter, the College established legal guidelines for Ontario teachers to follow the Ethical Standards for the Teaching Profession and the Standards of Practice for the Teaching Profession (OCT, 2009). However, educational literature and statutes, such as Section 264 of the Education Act of Ontario, R.S.O. 1990 c. under “Duties of a Teacher,” imply that a teacher’s responsibility extends far beyond that of other professionals. Teachers today are expected to act as moral agents and exemplars and it has been suggested that teaching in itself is a moral undertaking (Campbell, 1997). As a result of this accountability, the public often measures “good
teaching” by the moral and ethical values of an individual teacher, which places teachers in a vulnerable position (Kelchtermans, 1996).

Ontario educators are expected to follow the regulatory requirements specified in the Ontario College of Teachers Act, Regulations 184/97 and 347/02 and to support the College's Standards of Practice for the Teaching Profession and Ethical Standards for the Teaching Profession. The requirements of Regulations 184/97 and 347/02 and the Standards of Practice and Ethical Standards for the Teaching Profession address legal and ethical issues that reflect the need for educators:

in their position of trust, (to) demonstrate responsibility in their relationships with students, parents, guardians, colleagues, educational partners, other professionals, the environment and the public. (OCT Foundations of Professional Practice, 2008, p. 7)

Teachers have an “obligation to create a learning environment consistent with constitutional and statutory mandates” (Redfield, 2001, p. 5). In fact, legislation and regulations govern almost every aspect of teaching: from what is taught, how students are evaluated and, how they interact with their students. It is difficult to pick out an aspect of a teacher’s day that is not regulated by the law. Many teachers feel overwhelmed by the law, regulations and at times feel they are under constant scrutiny and risk of liability. Teacher education programs need to help future teachers better understand their professional role and how to protect themselves and their students.

1.2 Background and Purpose of the Study

The education of public school teachers in Ontario has been the focus of many discussions and reviews over the years. In recent years, there has been a North American trend toward longer and more rigorous teacher preparation programs. In a recent study of pre-service and in-service programs by the Ontario College of Teachers, a number of recommendations have been
formulated and presented to the Ministry of Education (OCT, 2009). One of the recommendation states that teacher education programs increase in length from eight months to ten months:

Faculties of education recommendations ranged from increasing the program’s length to 12 months or two years. The English-language provincial consultations also recommended an increase to 12 months. (OCT, 2008, p. 28)

One school of thought suggests that the successful education of teachers cannot be adequately accomplished within an eight-month program (Darling-Hammond, 2006). The length and required compulsory components of the program cannot be squeezed into such a tight time frame. As a result of doing this, we send educators into our public schools less than fully prepared. Not only is there an academic debate over the length of teacher education programs, but there is a tension among educators as to the degree to which teacher education components are addressed. Classroom management, assessment strategies, curriculum methods, and instructional strategies are some of the components that are consistently found within teacher education programs. The Ontario College of Teachers mandates that initial teacher education programs include an educational law component. To varying levels of intensity, educational law is a component that is found in teacher education programs.

1.3 Research Question

Through the use of teachers’ reflective summaries of their experience in initial teacher education and through the use of case studies in the field, this study investigates the impact of educational law as a component within teacher education programs. The primary question being researched focuses on how educational law impacts on the professional and personal lives of educators during their teaching profession. The research questions endeavour to reveal the complex nature of educational law and the delicate balance which educators face when trying to reconcile their professional calling with their professional legal requirements. The main research
questions are: (1) “How does educational law impact on the professional and personal lives of educators?” (2) “What are the legal enablers and barriers to the teaching profession?”, and (3) “What role do initial teacher education program have on one’s understanding of educational law?”

1.4 Significance of the Study

Faculties of education develop teacher education programs in order to best prepare teacher candidates to meet the professional, ethical and legal challenges of a being teacher. However, there continues to be ongoing discussion around an individual’s level of preparedness to entry the teaching profession, especially in relation to knowledge of educational law.

Redfield (2001) suggests there are four reasons for educators to know the law. She states that knowing the law, especially those aspects that are procedural in nature, allows teachers to integrate societal values of fairness and due process in their schools. Secondly, she suggests that knowing the law helps educators act reasonably and preventively. Her third reason states that, “knowing the law allows educators to limit their liability under the typical immunity doctrines” (Redfield, 2001, p. 6). Finally, she suggests that educators and not lawyers should be the gatekeepers for educational legal school policies.

Motivation for teachers to become familiar with educational law goes well beyond these four reasons. The changing nature of education for the last two decades has been more than significant. Teachers now find themselves dealing with new issues related to the impact of technology; specifically, cyber bullying, the use of cell phones and text messaging. Teachers are asked to intervene when students use technology to harass other students and staff. Legal issues in education continue to grow at an exponential rate:

Education law is a dynamic, invigorating, and intellectually stimulating discipline because it is constantly evolving to meet the needs of today's schools. The merits of its decisions
aside, one has only to read recent Supreme Court decisions in such areas as the role the teacher, searches and schools, school funding and so on. (Zuker, 2001, p. 1)

Zuker (2001) writes about the ever-changing landscape of educational law. Teachers need to understand that, although they will face changes in school policies, ministry regulations, and, provincial legislation, they cannot lose sight of the importance of making decisions which are motivated by what is in the best interests of students:

Perhaps the only constant in education law is that it evolves to meet the demands of a constantly changing world. It will always remain of utmost importance and for all of us who are interested in children. In fact, the seemingly endless proliferation of new statutes, regulations, case law, and ministry memoranda speak of the need to be ever vigilant of how legal documents impact on education. (Zuker, 2001, p. 1)

1.5 Background of the Researcher

The lens through which I view my research work has been impacted by my involvement in and passion for teacher education and provincial policy development. I have held a number of leadership positions where teacher development has played a significant role.

I am a faculty member in a two-year teacher education program. My focus over the past eight years has been to support the effectiveness of the program and to enhance the professional and legal relationship between the university and the partner schools of the program. It is an exciting opportunity to foster and enhance the school university partnership and as such provide meaningful placements for the teacher candidates into our welcoming partner schools. As the course instructor for the Educational Professionalism, Ethics and the Law course and for classes related to curriculum policy development and effective teaching practices, I see a need to examine the impact of educational law as a component within teacher education programs.

I have been able to draw on my provincial educational policy development experience at the Ontario Ministry of Education. As an Education Officer with the Ministry of Education in the Curriculum and Assessment Policy Branch at Queen’s Park from 1997 - 2001, I was responsible
for the development of the Ontario Elementary Curriculum in the areas of Social Studies, History and Geography, and Health and Physical Education. These provincial policy documents have been published and are currently being used in all publicly funded schools in Ontario. As writer and project manager for the development of these elementary curriculum policy documents, I have a clear and thorough understanding of the process involved in developing provincial policy documents. I will bring this knowledge and experience to this research work.

During my term as Manager of the Elementary Curriculum Unit Project within the Ontario Ministry of Education, over one hundred elementary curriculum units of study were developed and approved for Ontario teachers in single and combined grade classes. I worked with both public and Catholic school board writing teams and I was responsible for reviewing these integrated units to ensure provincial curriculum policy compliance. To further assist classroom teachers, I co-wrote the Curriculum Unit Support Document that addresses the principles of lesson and unit design. This document was published and distributed to all school boards in Ontario. Coordinators in the university initial teacher education program are using the resource material from this publication.

In addition, I bring my many years of experience as an instructor and lecturer with the Principal Qualification Program (PQP) at the university to this research study. It is here that I have had the opportunity to work with future elementary and secondary educational leaders from across this province. In this position, I have been able to address current and ongoing educational leadership and legal issues, as well as, prepare educators to meet the challenges of provincial initiatives and enhance the level of teacher professionalism. It was during my years as a PQP instructor that I became aware of the basic level of understanding that principal candidates had of educational law.
Other positions of leadership, which I bring to this research study include being Course Director for ten years with the Faculty of Education at an Ontario university, delivering additional qualification courses in the area of Computers in the Classroom. I was also the Research Assistant for a school district Director of Education, a Computer Consultant, school board administrator and a classroom teacher. While Course Director at another university the impact of technology on ethical and legal issues for educators was at the forefront of many classroom discussions. The ethical use of technology continued to be an area of focus while conducting workshops and conferences for educators in my role as a school board Computer Consultant.

For the past number of years, I have been involved in preparing and delivering a variety of presentations to educational audiences. As a result of conflict management and conflict resolution training in Miami, I was selected as a Canadian representative and I have been involved in presenting safe school conferences in Ontario and in the southern United States. During the past number of years, I have been fortunate to be involved in a number of projects while holding a variety of leadership positions. I bring this leadership experience, professional knowledge, and provincial, national and international involvement to this research study.

1.6 Limitations of the Research

This research study investigates the importance of knowledge of educational law for teachers in Ontario schools as they move through their educational career. More specifically, it explores the experiences of teachers who are in their first few years of teaching, a principal and a representative from teacher union. With respect to the sample size, the ability to generalize the findings is limited to data collected from those cases.
The literature on educational law as a component within teacher education framework is somewhat limited and this research study will lend itself to narrowing the existing gap in current research. The scope of the findings from this study will not be able to provide comprehensive recommendations for teacher education programs, but rather, the study will focus on articulating specific recommendations related to educational law within the teacher education framework. The study will provide a voice for educators and educational stakeholders and will examine the legal, professional and ethical challenges confronting teachers in Ontario.

1.7 Definitions

The following terms will be used in this thesis and in order to assist the reader a brief description or explanation of the terms is listed below.

**CanLII** – Canadian Legal Information Institute – a comprehensive website of full-text federal and provincial court cases.

**Common Law** – This term refers to decisions made by the courts rather than legislative regulations and statutes. Common law is created by judges and impacts on future court cases. Also referred to as case law.

**Discoverability Rule** – The Discoverability Rule allows a plaintiff two or more years to file a claim against an individual. Expands the possibility of the bringing civil action.

**R.** – Regina – Used in criminal cases. The initials are used for undisclosed parties representing the Queen. (i.e., *R. v. Harrison*)

**R.S.O.** – Revised Statutes of Ontario

**S.C.C.** – Supreme Court of Canada
1.8 Overview of the Thesis

This research study is organized into five chapters. The first chapter will provide an introduction that sets the context for the study and will describe the purpose and the research problem for the reader. The chapter will explore and discuss the significance of this study and the need for educators to be familiar with educational law. Finally, Chapter One will provide definitions of specific terms and take a realistic look at the limitations of the study.

Chapter Two reviews current and salient literature. The literature review is divided into three main areas: (1) the delicate balance between an educator’s mission and his or her requirement to follow policies and procedures; (2) documented court cases which have an impact on educators; and (3) the educational law component within the teacher education framework.

Chapter Three describes the qualitative research methods, research design, and instruments used in the study. The areas of data collection and organization, data analysis and validation and access to the participants and the ethical considerations involving the teacher participants are also reviewed. A sample interview template is also provided.

Chapter Four outlines the findings collected from six interviews. The individuals interviewed include four beginning teachers, two with at least two years teaching experience and two recent teacher graduates from a two-year teacher education program. To enrich the repository of collected data, a school administrator and a representative from an Ontario provincial teacher union were interviewed. All four of the beginning teacher participants completed a two-year teacher education program. Chapter Four also describes the reflective narratives of recent teacher education graduates on the impact of educational law on their role as a future educator.

Chapter Five articulates the implications of the data collected from the interviews and from the reflective narratives through the lens of the research questions and the literature review.
This final chapter provides a series of recommendations for initial teacher education programs specific to educational law. As well, a number of suggestions for future study are described.
Chapter Two – Literature Review

2.1 Introduction

The literature review will describe and clarify the salient issues in relation to the impact of educational law on beginning teachers. It will establish a rationale and theoretical foundation for the research and will set a direction for the nature of this thesis.

The literature on educational law as a component within a teacher education framework is somewhat limited and this research thesis will lend itself to narrowing the existing gap in current research. Each of the themes identified in the literature review will add to the collective understanding and enhance the knowledge of educational law and its impact on beginning teachers.

The literature review is organized into three main themes. The first theme addresses the challenges educators face when trying to make decisions in the best interest of students while adhering to the legal requirements of the profession. Although, one would think that both areas are in concert, in reality, many educators find themselves struggling to strike a delicate balance between the two expectations.

The second main theme of the literature review will explore the documented cases which provide landmark decisions regarding such areas as supervision and duty of care, a teacher’s responsibility to report child abuse, a teacher’s right to freedom of expression, educators as moral models, the impact of using technology, and family law issues of custody and access to children. The decisions around these cases will provide a foundational base for data collection.

The third theme within the literature review will examine the various elements within a teacher education framework and how the educational legal component is addressed within these programs. The review will examine teacher education frameworks within the Ontario context.
2.2 A Delicate Balance

In light of the ever-changing rules and regulations, liabilities and interests, teachers can become easily overwhelmed by this legislation. In an address given by Justice Paul Rouleau to a group of educators in August 2006, he suggests that teachers need to understand that there is a delicate balance between adhering to all these rules and yet always maintaining as a priority what is best for children.

Apart from the seemingly endless number of laws, statutes, and regulations that impact on schools, which include the Education Act, the Criminal Code of Canada, the Youth Criminal Justice Act, the Ontario College of Teachers Act, the Child and Family Services Act, the Human Rights Code and the Charter of Rights and Freedoms, many other factors impact on an educator’s attempt to balance legal responsibilities with their professional mission. Such factors include various internal and external stakeholder groups; schools at the forefront of social issues; the impact of common law (i.e., judge made law such as the law of torts); and the changing nature of the educational system.

Since education plays such an essential role in society, there are many stakeholder groups who each bring a specific point of view. These different stakeholder groups include students, parents and guardians, colleagues, teacher unions, the school board, the immediate community, and society. Each of these groups has potentially a set of different objectives, interests and rights. In some cases, these points of view are in direct conflict with each other. Needless to say, an educator’s decision will impact not only one group but will also have a impact on other stakeholder groups. In any given context, the appropriate course of action is not only complicated but also difficult to balance. One such area where conflicting views appear is in regards to an educator’s responsibility to supervise students and to demonstrate duty of care.
2.2.1 Supervision and Duty of Care

At the forefront of many educational legal responsibilities is student supervision. Student supervision can be seen in many forms during the school day, including hall duty, yard duty, lunch time supervision as well as excursions or after-school programs, such as athletic team practices, games or school drama productions. Educators’ involvement in after-school and recreational programs help build healthy relationships and learning environments that allow students to develop self-efficacy, respect, and a sense of belonging, which in turn reduce crime and school misconduct (Zuker, 2001). Across Canada, the common law clearly establishes that teachers have a duty of care toward students under their care. The duty derives from the special relationship that exists between a teacher and his or her student. Parents entrust their children to the care of teachers and other board employees. This places an expectation on schools as “they (parents) are entitled to expect at least three things for their children: the opportunity to acquire knowledge and skills, fair and equitable discipline, and a safe learning environment” (Brown and Zuker, 2007, p. 99).

Duty of care requires teachers to assume the role of a kind, firm and judicious parent. While duty of care originates from Common Law, the Education Act also requires that teachers maintain the standard of care of a careful and prudent parent (Berryman, 1998). Furthermore, Van Nuland (2001) outlines that the doctrine of “in loco parentis” refers teachers to act in place of the parent for the purpose of educating the child. However, the standard of care differs in each situation, depending on various factors, including, but not limited to, the number of students being supervised, their age, skill and competency level, the type of activity in which they participate and the equipment that may be in use.
The Education Act of Ontario requires teachers and principals to carry out specific responsibilities to ensure the safety of the students in their care. One Ontario regulation states that the teacher shall “be responsible for effective instruction, training and evaluation of progress of pupils in the subjects assigned to the teacher” (Regulation 298, 1990, s 20). The type of activity will determine the level of supervision required. For example, teaching a science class brings with it a higher level of safety awareness than would a Mathematics’ lesson. The safety requirements for conducting a gymnastics’ class include specific training to handle the specialized equipment.

According to the Education Act of Ontario, it is incumbent on the teacher to “carry out the supervisory duties and instructional program assigned to the teacher by the principal and supply such information related thereto as the principal may require” (Ontario Education Act, 1990, Section 264). Such duties include following the yard duty schedule, and ensuring appropriate and adequate supervision when travelling on field excursions and/or athletic tournaments.

The school is required by its district board policy to obtain signed permission forms from parents or guardians for student participation in any activities that require students to participate in activities inside and outside of school premises. However, it is important to note that signed permission forms do not excuse any negligent behaviour by teachers during these activities. Furthermore, when students engage in experiments with hazardous chemicals in Science class, participate in daily physical activity, or take part in lunch-time clubs or activities, the teacher must “ensure that all reasonable safety procedures are carried out in courses and activities for which the teacher is responsible” (Ontario Education Act, 1990, Section 264).
Ontario Regulation 298 states that a principal has the duty to “provide for the supervision of pupils during the period of time during each school day when the school buildings and playgrounds are open to pupils” (Ontario Regulation 298, 1990, Section 11). The principal is ultimately responsibility to ensure that students are being supervised at all times. However, teachers are responsible for carrying out the supervision duties as described on the schools’ supervision schedule. All teachers must recognize the importance of being on time and actively supervising the students during these times. They must “provide for the supervision of and the conducting of any school activity authorized by the board,” and “provide instruction of pupils in the care of the school premises” (Education Act of Ontario, 1990, Section 264).

Parents and guardians expect educators to provide a safe and caring learning environment. Regulation 298 and the Education Act of Ontario outline the legal responsibilities that must be taken by teachers in order to maintain a secure and safe environment for all students. Educators, when supervising students, must consider factors such as their teacher education, the instruction required to ensure safety during school activities, appropriate handling of chemicals, and the condition of equipment when planning instructional programs in order to reduce liability and the risk of harm to students.

2.2.2 Duty to Report

While teachers have long been required to report suspicions of child abuse, the Ontario Child and Family Services Act requires teachers to report all suspicions they may have based on reasonable grounds that a child is or may be in need of protection to a Society (i.e., Children's Aid Society (CAS)). One of the major changes to the legislation requires a teacher to report, based on reasonable grounds, any suspicion that a child is or may be in need of protection. This expands the professional's duty to report and holds the teacher liable for not reporting where a
child is in need of protection. There are 13 areas where teachers must report their suspicions to the CAS. The areas situations where a child:

- has suffered physical harm inflicted by someone in charge of the child or through their failure to care for, provide for, supervise or protect the child, or from a pattern of neglect,
- is likely to suffer harm,
- has been sexually molested or exploited,
- is likely to be sexually molested or exploited,
- requires medical treatment that is not being provided,
- has suffered emotional harm where there are reasonable grounds to believe it results from actions, failure to act or neglect of a person in charge of the child,
- has suffered emotional harm and treatment is not being provided,
- is likely to suffer emotional harm from the actions, failure to act or pattern of neglect of parents or persons in charge,
- is likely to suffer emotional harm and that parents or persons in charge are not providing treatment or services to prevent the harm,
- suffers from a condition that, if not remedied, could seriously impair their development and parents or persons in charge are not providing treatment,
- has been abandoned,
- is less than 12 years old, has killed or seriously injured another person or caused serious property damage and parents or persons in charge are not providing the necessary services or treatment to prevent a recurrence, and
- is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property with the encouragement of the person in charge of the child or because of that person's failure or inability to supervise the child adequately. (Child and Family Services Act, 2009, Section 72(1))

The legal duty to report is also ongoing. A teacher, who has made a previous report about a child and has additional reasonable grounds to suspect that a child is or may be in need of protection, is required to submit another report to the CAS. Teachers can no longer delegate the responsibility to report to CAS to another individual in a authority at the school (e.g., principal).

2.2.3 Protecting Our Students: The Robins Report

In 2002, the Student Protection Act was enacted by the Ontario Government in response to a report (Robins, 2002). Justice Robins was appointed by the Ontario government to find ways to identify and prevent sexual harassment, sexual assault, or violence in Ontario schools. The
final report resulted in making over 100 recommendations. The report resulted from the case of a Sault Ste. Marie teacher, who was convicted in 1996 of assaulting 13 female students over an extended 21-year period. Justice Robins conducted in depth interviews with individuals connected with the investigation of the teacher, victims, and school board officials.

Recommendations from the report included specific legal obligations for teachers, school officials and school boards. As a result of this report, pre-service and in-service programs were required to include information about sexual misconduct. Screening of teacher applicants, reporting sexual assault and misconduct to the College, investigating sexual misconduct and the requirement for full disclosure were all part of the report.

2.2.4 School Boards and the Ontario College of Teachers

Thirty-nine of the 101 recommendations affected the way the Ontario College of Teachers and Ontario School Boards report or communicate offences to each other. The Robins Report recommended that legislation be changed to prevent teachers suspected of abuse from transferring to another school or school board before they can be charged or convicted. Prior to the report, school boards were expected to inform the Ontario College of Teachers only when a teacher has been convicted of a sexual or other offence that might put students at risk. School Boards were not expected to inform the OCT if no conviction was forthcoming.

Robins felt these requirements were "significantly deficient." The report recommended that school boards be required to inform the OCT when a teacher is charged with an offence, disciplined or dismissed because of an offence or when a teacher resigns during an investigation regarding an offence.
2.2.5 Criminal Record Checks

All Ontario teachers are now required to have a criminal check (Criminal Records Review Act, 2009). In fact, any teacher or parent volunteer is required to submit a criminal record check before any offer of a job is made. The recommendation from the report includes a full reference check with previous employers as part of the screening process along and is a legal requirement and reflects the need to have school staff, who are in a position of trust or authority and all school volunteers who have unsupervised contact with students.

2.3 Schools and Societal Issues

Many factors contribute to the complicated nature of education. One of the main factors that contributes to this complexity is that schools are seen as being at the forefront of many social issues. Schools in many ways are asked not only to be the catalyst to social reform but also to reflect societal norms. The challenge of course is recognizing societal norms are elusive at best, leaving educators finding themselves trying to resolve legal and ethical issues for a diverse educational community. The following subsections illustrate how societal issues impact on schools and teachers.

2.3.1 Expression of Religious Rights

The expression of religious rights has been one social issue that has found its way to the Canadian courts. Teachers, schools, and school boards have found themselves trying to balance religious expression with school safety. In one case, a 13-year-old orthodox Sikh accidentally dropped his metal kirpan while he was playing in the schoolyard (Multani v Commission Scolaire Marquerite Bourgeoys, 2001). Based on the school's code of conduct, which does not allow the carrying of weapons on school grounds, the parents of the 13-year-old boy were informed that he
could no longer carry the kirpan. The school authorities were willing to allow the child to wear a symbolic kirpan made of the material that would make it harmless.

However, the Québec Superior Court declared this decision to be of no force and effect and authorized the child to wear his kirpan provided that he adhere to a number of conditions. Those conditions include, the kirpan was to be worn under his clothes and the kirpan was to be carried in the sheath made of wood wrapped and sewn securely within his clothes. In a report on the case:

In Multani, the Supreme Court of Canada noted that the requirement for orthodox Sikhs to wear a kirpan at all times was not contested by any party, and accepted that the child's refusal to wear a symbolic kirpan made of a material other than metal, as suggested by the Council of Commissioners, was ‘based on a reasonable religiously motivated interpretation,’ and a sincere belief that he must ‘adhere to this practice in order to comply with the requirements of his religion.’ Following the Court's lead in the Amselem decision, the Court in Multani affirmed that ‘the fact that other Sikhs accept such a compromise [wearing a plastic or wooden kirpan] is not relevant.’ (Multani v. Commission scolaire Marguerite-Bourgeoys, [2006] 1 S.C.R. 256, 2006 SCC 6)

Educators found themselves trying to defend their decision to maintain a safe school environment that clearly includes the prohibition of weapons on school property. In the view of the courts the kirpan was not a weapon but rather as a symbol of one’s right to freedom of religious expression:

As the child was being forced to choose between leaving his kirpan at home and leaving the public school system, the Court accepted that the infringement was not a trivial or insignificant interference with the child's right to freedom of religion. Thus, the Court concluded that the Council of Commissioners' decision to prohibit the wearing of a kirpan on school premises constituted an infringement of the claimant's freedom of religion. (Carter, 2006, p. 3)

2.3.2 Freedom of Expression

Educators’ freedom of expression is another social issue that continues to be tested in our schools. One of the first American legal cases to deal with freedom of expression in the classroom was the Scopes v. Tennessee, 289 S.W. 363 (Tenn. 1927). Better known as the Scopes/Monkey trial, this case involved John Scopes, a twenty-four-year old general science teacher who believed that teaching biology also included teaching about evolution. During his biology classes, he assigned readings on evolution and his actions in the classroom led to charges under the Tennessee law that prohibited teaching evolution in public schools. Scopes was found guilty by the jury and was fined $100. A year later, the Tennessee Supreme Court reversed the
decision of the Dayton court on a technicality. Scopes was not retried. When a similar case reached the U.S. Supreme Court, the Supreme Court struck down an Arkansas statute prohibiting teaching of evolution, *Epperson v. Arkansas*, 393 U.S. 97 (1968).

In the more recent case of *Morin v. Prince Edward Island Regional School Board* (1999), a high school teacher showed the documentary about fundamentalist religion in America entitled, *Thy Kingdom Come, Thy Will be Done*. A group of parents were offended by the teacher’s decision to show the video in class. After hearing the concerns of the parents, the principal met and informed the teacher that the material in the video was not appropriate for viewing in the classroom. After being on sick leave for an extended period of time, the teacher returned to teach his classes where very few students chose to be present. Although a committee of curriculum experts found the matter to be acceptable with a few suggestions regarding the level of preparation, the victory for the teacher was short lived. As a result of parental pressure and the trial judge stating that freedom of expression does not apply to elementary or secondary school teachers, the teacher’s contract was not renewed. The trial judge stated:

> I hold that freedom of expression does not grant teachers at the elementary and the secondary public school levels the right to teach whatever they like to their students as a captive audience. Teachers in an elementary or secondary public school have no constitutionally protected right to determine, based on their own personal views, how the aims of the curriculum are to be achieved over the informed judgment of school principals and school boards. (Crook & Truscott, 2007, p.137)

Not only are teachers held responsible for their actions within a classroom setting, but their off-duty behaviour may be challenged if the action or the views expressed by the teacher are deemed to have a negative or detrimental effect on students. The Ontario College of Teachers cited the Supreme Court of Canada in the case of *Ross v. New Brunswick School District No. 15*:

> Where a poisoned environment within the school system is traceable to the off-duty conduct of a teacher that is likely to produce a corresponding loss of confidence in the teacher and the system as a whole, then the off-duty conduct of the teacher is relevant. (S.C.C., 1996, p. 45)
In 2007, a male teacher, employed by the Peel District School Board was found guilty of professional misconduct by the Discipline Committee of the Ontario College of Teachers. They found his actions to be contrary to the Ontario College of Teachers Act, 1996. He was accused of participating in a Heritage front rally where supremacist flags and “skin head” supporters were present. On Feb 26, 1997, the Peel District School Board terminated the teacher, and, in 2002, he was brought before the Discipline Committee of the College for failing to comply with the Teaching Profession Act. The specific question before the Committee was to examine the right of an individual to engage in these off-duty activities and still remain a teacher in good standing.

In removing his Certificate of Qualification and Registration, the College believes that, in fact, there are limits on teacher’s right to freedom of expression. In the view of the College, the teacher failed to meet the requirements as articulated in s. 30 of the Ontario College of Teachers’ Act by failing to meet the following four expectations:

(a) strive at all times to achieve and maintain the highest degree of professional competence and to uphold the honor, dignity and ethical standards of the teaching profession;
(b) show consistent justice and consideration in all relations with his pupils;
(c) concern himself with the welfare of his pupils while they were under his care; and
(d) failed to comply with s. 264(I)(c) of the Education Act. (p. 621)

Freedom of expression is a complex matter and is illustrated by the ongoing tension between an educator’s rights to express themselves and a school’s obligation to maintain a professional tone. More recently, in a similar situation, a private school director has come under attack for authoring a number of explicit poems:

A private Jewish school is reviewing samples of sexual and at times violent poetry written by its director - and posted on his website - after some parents complained to the content is inappropriate for an educator. … the poems were circulated to parents last week in an anonymous e-mail that called the works” disturbing” and asked whether they felt comfortable entrusting their children's education to the author. (Brown, March, 2008, p. 1)
The Canadian Charter of Rights and Freedoms guarantees our freedom of expression, subject to section 1. However, in this case, the private school director was removed from his position.

In 1990, a secondary teacher in the province of Alberta was convicted of unlawfully promoting hatred under section 319(2) of the Criminal Code. Section 2(b) of the *Canadian Charter of Rights and Freedoms* state that everyone has the fundamental freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication. However, subsections 319 (2) and (3) of the Criminal Code states that anyone who communicates statements which willfully promote hatred against any identical group is guilty of an offense and is “liable to imprisonment for a term not exceeding two years”. The teacher made his statements in public and in his capacity as a teacher. The Supreme Court ruled, by a margin of four to three, that:

1. Communications which willfully promote hatred against an identifiable group are protected by s. 2(b) of the charter. Section 319(2) of the Criminal Code, therefore, represents an infringement of the charter.
2. Section 319(2) of the Criminal Code constitutes a reasonable limit upon freedom of expression under Section 1 of the charter because a) there is obviously a rational connection between restricting hate propaganda and fostering harmonious social relations between Canadians b) it doesn't unduly impair freedom of expression and c) its harmful effects do not outweigh the advantage gained from limiting freedom of expression. (R. v Keegstra, 1990, n.p.).

### 2.3.3 Censorship of Resource Material

Another social issue facing educators in our schools today is highlighted when a teacher decided to use books containing sensitive issues. The Supreme Court of Canada was asked to rule on the decision made by the British Columbia school board banning books, which were meant for children in kindergarten or grade one and featured characters with same-sex parents. The issue came to light when a kindergarten teacher wanted to use the books to decrease homophobia. When members of the school community became aware, they felt that the books were, in fact,
used to teach about homosexuality. When presented to the school board, the books were removed from the classroom. The local judge ruled:

The Board was authorized to approve or not to approve books for classroom use. But its authority is limited by the requirements in s. 76 of the School Act to conduct schools on ‘strictly secular and non-sectarian principles’ and to inculcate ‘the highest morality’ while avoiding the teaching of any ‘religious dogma or creed’.
(http://nodiety.com/chamberlain_v_sd36.html, 2002)

However, when the matter was sent to the Supreme Court of Canada, it ruled that the judge in the Surrey School Board case had erred in his decision to ban the books:

Madam Justice McLachlin found that the decision of the Surrey School Board was ‘unreasonable’ in that it failed to promote respect and ‘tolerance’ for all the diverse groups that it represents and serves, and, therefore, the Board acted outside its mandate under the BC School Act. Madam Justice McLachlin concluded that the message of the controversial books was a message of ‘tolerance.’ She finally concluded ‘tolerance is always age appropriate.’ In effect, she stated that no child was too young to be provided with pro-homosexual material. (Chamberlain v. Surrey School District No. 36, [2002] 4 S.C.R. 710, 2002 SCC 86, 2002 SCC 86, 2002)

The preceding cases highlight the importance that educators need to recognize the limits of their freedom of expression, whether it be during one’s conduct outside the classroom or the nature of the resource material used in the classroom. Both teachers failed to see the professional and legal duty they had in ensuring their conduct did not have a detrimental impact on the school’s reputation or a negative influence on the students themselves. In the Surrey School Board case, the types of resources, which may be used in the classroom, are regulated not only by ministry guidelines but also by the social norms of the community at large.

2.3.4 Moral Responsibility

Educators need to reflect on the elevated position that the profession and society place on them. Teachers are in a position of trust and as such need to examine the impact of their activities outside school. In 2002, an Ontario board of arbitration found that off-duty conduct was just cause for dismissal (Peel Board of Education and OSSTF, 2002). In the view of school boards in
Ontario, off-duty behaviour that is deemed to be contrary to the core principles or detracts from the credibility of the teaching profession is cause for disciplinary action.

Bergem (1990) argues that, in “Western culture, teachers constitute one of the most influential groups of older people with whom young people interact” (p. 91). Educators are in a position of responsibility and, as such, “teaching can to a very large extent be conceived of as a moral enterprise” (Bergem, 1990, p. 89). Campbell (2003) also describes teaching as a moral practice. She asserts that “the activity of teaching is itself saturated with moral significant, and it is so in ways that illuminate both the beneficial and harmful influence teachers can have on students” (p. 10). As such, the burden of responsibility that is embedded within the teaching profession behooves teachers, by virtue of their position in society, to be cautious and aware of the implications of their behavior outside of the classroom. A daunting responsibility – one that should concern educators and teacher education program developers.

If teaching is a moral act, then educators need to analyze not only their role as a teacher but their position as an educator of morals. Campbell (2003) suggests teachers “transmit moral lessons to students about appropriate and inappropriate beliefs and behaviours by direct instruction, spontaneous admonition and intervention, and personal modeling” (p. 5). If personal modeling is also part of an educator’s responsibility then perhaps school boards are justified in disciplining teachers for behaviour outside the classroom. Berryman (1998) suggests, “the conduct of a teacher is evaluated on the basis of his or her position, rather than whether the conduct occurs within the classroom or beyond (p. 5).” Educators are entrusted with public confidence and any loss of that may disrupt “the proper carrying on of the educational system” (Berryman, 1998, p. 6). The teaching profession is entrusted with the academic, social, and emotional development of young adults:
teachers hold a position of trust and influence. As clearly mandated by the Ontario College of Teachers, the teaching profession is held to a higher standard by the public. The ethical standards of care, respect, trust and integrity are the cornerstones for the teaching profession. In their position of trust, teachers must demonstrate ethical judgment in their various relationships with all the educational community stakeholders – students, colleagues, parents, and the public. (Hawes, Scarfo et al, 2005, n.p.)

In Ontario there are two publicly funded school systems. Within the publicly funded Catholic School Boards in Ontario, teachers are expected to not only be role models but Catholic role models who by their actions and behaviour both inside and outside the classroom mirror the tenets of the Catholic faith (Caldwell v. Stuart, 1984). Catholic teachers need to recognize the implications of expressing views, which are contrary to the Catholic Church.

In a Vancouver case, the issue focused on a school’s right to discipline a teacher for not following the tenets of the Catholic faith. A Catholic teacher with the Catholic Public Schools of Vancouver was not re-hired due to the fact that she married a divorced man in a civil ceremony contrary to the Catholic Church dogma (Caldwell v. Stuart, 1984). The teacher felt she was wrongfully dismissed and felt that, under Section 8 of the British Columbia Human Rights code, she was free from discrimination in employment. The Board argued that the teacher was not rehired because she did not meet one of their bona fide qualifications of employment - for Catholics to live according to Church doctrine. The Board felt that their decision was supported by Section 22 of the British Columbia Human Rights Code. The case went to the Supreme Court of Canada in December of 1984.

According to section 8 - Discrimination in employment, of the British Columbia Human Rights Code (the BC Human Rights Act as of 1997), a person must not:

(a) refuse to employ or refuse to continue to employ a person, or
(b) discriminate against a person regarding employment or any term or condition of employment because of the race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation or age of that person or because that person has been convicted of a criminal
or summary conviction offence that is unrelated to the employment or to the intended employment of that person. (http://www.canlii.org. Caldwell et al. v. Stuart et al., Supreme Court of Canada, 1984, p. 604)

However, the B.C. Human Rights Code goes on to describe the exception to the above section:

If a charitable, philanthropic, educational, fraternal, religious or social organization or corporation that is not operated for profit has as a primary purpose the promotion of the interests and welfare of an identifiable group or class of persons characterized by a physical or mental disability or by a common race, religion, age, sex, marital status, political belief, colour, ancestry or place of origin, that organization or corporation must not be considered to be contravening this Code because it is granting a preference to members of the identifiable group or class of persons. (http://www.canlii.org. Caldwell et al. v. Stuart et al., Supreme Court of Canada, 1984, p. 628)

The School Board firmly believed that teachers, due to their position, can influence students both emotionally and spiritually. Furthermore, the Board felt that a Catholic teacher must be a Christian example to his/her students. The court ruled in favour of the School Board, arguing that “[b]ona fide qualification for employment is separate and distinct from reasonable cause for dismissal” (p. 611). Furthermore, “[t]he requirement of religious conformity by Catholic teachers, objectively viewed, was reasonably necessary...”, and the appellant “deprived herself of a bona fide qualification for employment through her breach of canon law” and therefore “was not protected by the provisions of Section 8” (http://www.canlii.org Caldwell et al. v. Stuart et al., Supreme Court of Canada, 1984, p. 611).

The implications of this case are clear. Teachers who choose to be employed by a Catholic School Board are expected to model, by example, the virtues and tenets of the Catholic faith. To ignore such an expectation may result in legal action by the school board.

2.3.5 Use of Technology

Educators need to be aware of issues such as cyber-bullying, the impact of social networking sites such as Facebook, and the potential dangers of using technology and Internet to defame educators. Students are using technology as a means of expressing inappropriate views
about fellow classmates and their teachers. Parents have been found to use technology and the Internet to make defamatory comments about educators. In one case, a parent published defamatory comments about a principal and a superintendent in a newsletter and posted the statement on the Internet and emailed the same letter to Board Trustees and Senior Administration (Ottawa-Carleton District School Board v. Scharf). The school board, in support of its employees, took the matter to court. The Ontario Supreme Court awarded damages to the amount of $15,000 to each of the plaintiffs. In his comments, the trial judge stated:

The plaintiffs are professionals and have exemplary reputations in the profession of teaching. Their professional reputations have been attacked and the attacks have gone to the core of their professional reputations. The defendants used the Internet to launch those attacks and it is acknowledged that there is an increased potential for harm when publication is by way of Internet. (Ottawa-Carleton District S. B. v. Scharf, Ontario Supreme Court, 2007, paragraph 28)

This particular case is of great interest to educators for a number of reasons. The school board was prepared to defend its employees by not allowing parents to use the Internet to abuse the principal or the superintendent. More importantly, the decision highlighted the importance of an educator’s reputation. Educators are held to a higher level of accountability and as such, harm to their reputation will result in loss of credibility.

2.3.6 Custody and Child Access

The terms custody and access have two very different meanings and highlight the complexity of the legal obligations that teachers need to understand. The custodial parent has the legal right to make decisions pertaining to the child, while the parent who has access rights is permitted to receive information regarding the child but has no statutory right to participate in making decisions regarding the child (Brown and Zuker, 2007).

Educators need to be aware that non-custodial parents have limited access to their children as outlined in a court order or separation agreement. Where the terms of the court order
indicate that a non-custodial parent only has weekend access to the children and enters the school during the week to pick up the children, they are in breach of the court order. Teachers will need to know what to do when challenged by a parent or guardian. The custodial parent needs to be contacted and made aware of the situation.

Parents, in the best interests of the child, will consent to joint custody. Although joint custody has no statutory definition (Brown and Zuker, 2007), it does allow, pending the terms of the agreement, both parents to have equal access. Teachers need to be aware of these court orders when releasing their students from school to a parent or guardian.

2.3.7 Teacher Relationships and Collegial Conflicts

An educator, in the course of their daily responsibilities, will come in contact with parents, students, and fellow colleagues. The nature of the interaction among teachers and various stakeholders can, in many cases, be very sensitive and emotional. These encounters can easily lead to tension and conflict. Conflicts are inevitable simply because of the different viewpoints and philosophies that educators bring to the table. Collegial disagreements can be very difficult to resolve, especially, if there is an unequal balance of power between the two colleagues.

In a study conducted by Tirri and Husu (2007), a number of conflicts among elementary teachers were documented. These conflicts resulted in unresolved situations. The following is an account between a teacher and a colleague:

My colleague embarrasses children by asking intimate questions about their family problems – for example, about parents fighting. I discussed this problem with her, and after that discussion she began to criticize everything I was doing. She has made complaints about my work to my supervisor and spread gossip about my life to my parents. We were counseled three times but counseling did not resolve our conflict. This problem was not solved: I only made it visible. (Tirri & Husu, 2001, p. 5)

As documented in earlier studies, collegial conflicts are the most difficult to resolve and in many cases remain open (Campbell, 1996).
Hicks, Glasgow and McNary (2005) identify four areas of conflict, which beginning teachers may encounter. The four areas for conflict are: Curriculum and Instruction; Interpersonal Relationships; Self-Concept or Role; and, Contextual and Institutional. According to their study, educators have conflicting views about how and what curriculum should be taught. In some cases, educators feel isolated or with respect to self-concept feel a need to be accepted. The last area of conflict relates to educators trying to acclimatize to the social context of the school.

2.4 Overview of Teacher Education

The ethical standards of care, respect, trust, and integrity, and, the legal expectations infused in the College’s *Standards of Practice for the Teaching Profession* form part of the framework for teacher education. Although teacher education “in Canada is complicated by a certain patchiness of data on this subject and a rather complicated governance system,” (Broad, Evans, et al, 2008, p. 3), it is important to examine the framework of teacher professional learning, and, in doing so, examine the implications of educational legal knowledge as a component of that framework.

Teaching is, “one of the most challenging and respected [professions], absolutely vital to the social, cultural, and economic health of [a] nation” (Taack Lanier, 1997, p. 1). Numerous researchers in the field of education have acknowledged the significance of schooling in personal and societal achievement, as well as the important role of the classroom teacher (Darling-Hammond, 2000; 2005; 2006; Taack Lanier, 1997). In contemporary society, globalization is rapidly changing the role of the educational system, the school, and the teacher. One of the biggest shifts in society affecting education is the move towards mass knowledge and information technologies. Individuals are expected to know more, have more skills, and be
capable of utilizing various forms of media (Bottery, 2006; Darling-Hammond, 2000; 2005; 2006; Jacobsen, Clifford, & Friesen, 2002; Maksakovskii, 2006; Taack Lanier, 1997).

These changes are profoundly shaping educational policies and in turn, the role of and demands placed on the classroom teacher (Bottery, 2006; Darling-Hammond, 2000, 2005, 2006; Taack Lanier, 1997). Darling-Hammond (2006) describes the role of teaching:

the importance of powerful teaching is increasingly important in contemporary society [as] standards of learning are now higher than they have ever been before, as citizens and workers need greater knowledge and skill to survive and succeed…Teachers need not only be able to keep order and provide useful information to students, but also to be increasingly effective in enabling a diverse group of students to learn more complex material… they are now expected to prepare virtually all students for higher order thinking skill. (p. 300)

In addition to assisting students in their intellectual growth, teachers of the twenty first century wear many other “hats” which require them to perform the roles of counselor, social worker, moral guide, and police officer. They are asked to support the emotional, psychological, physical, and social development of their students, further increasing the demands of the profession.

In addition to shifts in society and the economy, research shows that the attrition rates have significantly increased in the teaching profession over the past several years (OCT, 2008). The National Commission on Teaching and America’s Future (2002) attests that turnover rates in teaching is higher than that of any other profession in the United States. Most of the teachers who leave the profession do so within their first five years of teaching (Black, 2004; Darling-Hammond 2000; Kirby and Grissmer, 1993; National Commission on Teaching and America’s Future, 2002; McIntyre, 2004). In Ontario, a study conducted by the Ontario Teacher’s Pension Plan demonstrates that 22-33% of new teachers left the profession within their first three years of being in a classroom (McIntyre, 2004). Similarly, data from the National Centre for Education Statistics (1999-2000) claims that, “almost a third of America’s teachers leave the field sometime
during their first three years of teaching and almost half leave after five years” (National Commission on Teaching and America’s Future, 2002, p. 4).

The number of teachers leaving the profession is alarming and high turnover rates affect the quality of the educational system (National Commission on Teaching and America’s Future, 2002). The National Commission on Teaching (2002) identifies that one way to reduce the high attrition rates in the teaching profession is through teacher preparation as, “several lines of research suggest that better prepared teachers stay in teaching at higher rates” (p. 11).

Moreover, the findings of the National Commission (2002) confirms that significant variations exist between first year teachers who “felt well prepared” compared to those who “felt poorly prepared” in terms of their intentions to remain in the profession long-term (p. 12). The observations of the National Commission (2002) are supported by those of Darling-Hammond (2000), who indicates that better prepared teachers are more capable of performing the different duties and handling the challenging demands of the profession. The author claims that teacher education is vital to the development of successful teachers:

recent evidence …indicated that reforms of teacher education creating more tightly integrated programs with extended clinical preparation interwoven with coursework on learning and teaching produces teachers who are both more effective and more likely to enter and stay in teaching. (p. 166)

It should be no surprise that faculties of education have focused on improving their teacher education programs with the aim of producing skilled and effective teachers who are prepared to meet the demands of the profession (Abourezk & Patterson, 2003; Darling-Hammond, 2005; Dudley & Razzano, 1999). Recommendations made by researchers for areas in teacher education that require development, include pedagogical knowledge, curriculum, meeting the needs of diverse learners, and connections between theory and practice as well as more time in practice teaching (Abourezk & Patterson, 2003, 2000, 2006). A study conducted by Darling-
Hammond (2006) of seven “exemplary teacher education programs” outlines several similarities in the structures and contents of the programs, which were believed to lead to exceptional and well-prepared novice teachers. These include:

1) a clear vision of good teaching that permeates all coursework and clinical experience;
2) a strong core curriculum taught in the context of practice and grounded in knowledge of child and adolescent development,… social and cultural contexts,… curriculum, assessment,… and pedagogy;
3) extended clinical experience;
4) extensive use of case methods, teacher research, performance assessment, and portfolio evaluation; and,
5) strategies to help students confront their own deep seated beliefs and assumptions about learning and students. (p. 305)

2.4.1 Two-Year Teacher Education Programs

In an effort to produce better trained teachers, some of the faculties of education in North America have restructured teacher education programs to include various initiatives, one of them being extended teacher education programs. As suggested by Darling-Hammond (2006):

A number of recent studies have found that graduates of extended programs are not only more satisfied with their preparation, they are viewed by their colleagues, principals, and cooperating teachers as better prepared, are as effective with students as much more experienced teachers, and are much more likely to enter and stay in teaching. (p. 168)

Teacher education programs in North America are generally completed during undergraduate studies or in postgraduate studies, upon the completion of a bachelor’s degree. Programs completed during undergraduate work are four or five years in length whereas those completed post graduation range in duration from eight months to two years, some of them providing graduate degrees. Alternative teacher education programs in the United States are much shorter in duration.

In Canada, provinces vary in the durations of their teacher certification programs. In Alberta, British Columbia, Saskatchewan, and Prince Edward Island, post graduate teacher education is generally twelve consecutive months to two school years in length (University of
Postgraduate teacher education programs in Ontario mostly require the completion of an eight-month program in order to receive qualifications to teach in public schools, however, some extensive two-year post graduate programs are also available such as, the University of Toronto, Ontario Institute of Studies in Education (OISE) program - Master of Teaching Degree and Master of Arts in Child Studies.

Numerous diverse teacher-education programs exist in North America leading to teaching certification. Although there are similarities that exist between programs, each contains unique features. Abourezk and Patterson (2003) demonstrate the benefits of “service learning projects” in undergraduate teacher education programs. In the project, teacher candidates taught workshops on physical fitness and nutrition in various community centers, including teen pregnancy sites and a senior citizen home. The researchers claim that the service learning project offers prospective teachers with the opportunity to engage in meaningful work that connects them to the community, develops their leadership skills, and allows them to work with diverse populations.

In Alberta, the University of Calgary has implemented technology as a core component of the final semester of studies in their two-year teacher-education program. The driving force behind the initiative is the assumption that teachers will need to learn how to use technology themselves and they will need to bring technology into their classrooms across the curriculum since contemporary society is becoming more technology focused. The prospective teachers are required to “develop a web based portfolio, complete a group selected focused technology task, construct an integrated multidisciplinary unit of studies, and carry out an independent inquiry project in the field” (Jacobsen, Clifford, & Friesen, 2002, p. 4). Students were also placed in
practice teaching classrooms, which focused on technology use so that they could connect their learning in the faculty to what was happening in the field (Jacobsen, Clifford, & Friesen, 2002).

At the University of Cincinnati, prospective teachers engage in a two year program with theory and three short teaching placements in the first year and a year long teaching internship in the second year (teachereducation.cech.uc.edu/academic_programs, 2009). A recent graduate of the program states:

The best part of the internship was that I was not simply left on my own; I had people to support and help me during the long and often frustrating year. I shared a classroom with my mentor teacher who provided me with all sorts of ideas, suggestions for successful lessons, planning techniques, and resources. (Dudley & Razzano, 1999, p. 29)

It is hoped that spending more time in the classroom and having the additional support of a mentor teacher will help develop teacher candidates more effective teaching practices as they are able to try new strategies, receive constructive feedback, and reflect on their own practice (Dudley & Razzano, 1999).

The Curry School of Education at the University of Virginia offers a two-year postgraduate Master of Teaching Degree. At the end of the program, the candidates receive a Master of Teaching Degree and a license to teach from kindergarten to grade six. The program includes professional studies courses dealing with contemporary educational issues, extended field experience and curriculum based courses in language, mathematics, social studies, and science (www.virginia.edu, 2009). The two-year teacher education program at University of California, Berkley combines a Master of Arts in Education with a focus on either science or mathematics. The Masters of Arts and Credential in Science and Mathematics (MACSME) program includes a research component, and courses in educational theory, science or mathematics and field experience specifically in on of the two subject areas (http://gse.berkely.edu/program/overview.html, 2009). Bank Street College in New York offers a
two-year, 45-credit program for teacher candidates interested in certification for grades one to six. This program offers courses in child development, language acquisition, core curriculum subjects, diversity, and extended field experience (https://www.bankstreet.edu/gs, 2009).

At the University of Hawai’i at Manoa, the Master of Education in Teaching (MEdT) is a rigorous two year graduate program composed of theory and teaching practice and an action research project component (http://www.coe.hawaii.edu/ite/medt, 2009). The program is founded on the four main principles of integrating theory and practice, inquiry based learning, collaboration and reflection. The program maintains small cohort groups which stimulates a great deal of collaboration between faculty and students. The pre-service teachers complete their teaching placement in partner schools, which are elementary and high schools that collaborate with the teacher education program. The students in this program have extensive opportunities to engage in practice teaching throughout the two years.

At each partnership school, a group of student teachers work together on a project to become familiar with the school, its community and its population (Marble, Awaya, & O’Brien, 1996). Students in the final internship, prior to the current economic downturn, were placed in vacant positions within schools and paid for their service. During this internship, they were monitored by faculty and mentors (http://www.coe.hawaii.edu/ite/medt, 2009).

One of the most unique features of the program is the education provided to the associate teachers, who mentor the pre-service teachers, and the partnership schools. The faculty arranges and presents workshops at the partnership schools in an effort to improve teaching and learning. The participating teachers are provided with extensive professional development opportunities and a few are selected to become members of the faculty as adjunct professors to travel between the partnership schools and offer support for the teacher candidates. Each student teacher is
visited at least once a week and offered support by their mentor (Laba, Nakatsuka, & Uyeda, 1996). Prior to completing the program, the student teachers are also required to complete a research project on a topic of their choice that will contribute to the field of education.

Teacher education is an important component in the field of education as it significantly affects teacher preparedness and teacher success upon entering the profession. The findings of different studies indicate that, when teachers are better prepared by faculties of education, they are more effective in the classroom and are less likely to burn out and ultimately change career paths (Black, 2004; Darling-Hammond, 2000; Huling-Austin, 1986; Kirby & Grissmer, 1993; National Commission on Teaching and America’s Future, 2002; McIntyre, 2004). However, there are still challenges in teacher education:

The often-repeated critiques of traditional teacher education programs are still apt in many places – inadequate preparation time, fragmentation of coursework and practice, uninspired teaching methods, superficial curriculum, and traditional views of schooling. The under-funding of programs and lack of quality review have allowed weak programs to continue in some universities. (Darling-Hammond, 1999, p. 10)

2.5 Education Law Courses in Teacher Education Programs

A sampling of education law courses within teacher education programs reveals a wide variance in the degree of intensity of this component. Even programs within the same university allocate different amounts of time to educational law. For example, at the Ontario Institute of Studies for Education (OISE) at the University of Toronto, where initial teacher education programs are offered in a number of formats, educational law is addressed differently. As part of the Bachelor of Education program, four on-line modules are infused into the Teacher Education Seminar course. The modules address the duties and responsibilities of teachers, professional conduct, safe schools policy and children, families and the law. In the Master of Teaching program at OISE, a 36 hour law course entitled, Educational Professionalism, Ethics and the Law
is a mandatory course for the teacher candidates. The Master of Arts program at the Institute of Child Studies at OISE does not offer a law course.

The University of Ontario, Institute of Technology also offers a 36 hour law course in their teacher education program, entitled Contemporary Educational Practice. The topics in the course include a basic understanding of legal issues. Specific topics discussed are the Ontario College of Teachers’ Act, the Teaching Profession Act, the Labour Relations Act, the Ontario Education Act and related regulations and the Freedom of Information and Protection of Privacy Act (uoit.ca/calendar 2009).

At Lakehead University, the educational law course is a 18 hour course. The course focuses on the legal, curricular, organizational and financial factors, which impact on elementary and secondary school educators (calendar.lakeheadu.ca, 2009). The University of Ottawa offers a 36 hour course entitled Schooling and Society. This course focuses on the roles teachers have in addressing social inequalities (education.uottawa.ca, 2009). Queens University offers a 3 hour course entitled Critical Issues and Policies. It is an introduction to issues and policies for beginning teachers in elementary schools. Students learn about their legal rights and responsibilities as teachers, and begin to learn about adapting instruction for exceptional learners and about equity issues they will face in schools (queensu.ca/calendars/education, 2009). Table 1 summarizes the degree to which educational law is addressed in a representative list of Ontario universities.
Table 1 - Education Law Courses in Specific Ontario Initial Teacher Education Programs

<table>
<thead>
<tr>
<th>University</th>
<th>Program</th>
<th>Name of Law Course</th>
<th>Description</th>
<th>Course Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brock</td>
<td>Bachelor of Education</td>
<td>Professionalism, Law and the Ontario Educator</td>
<td>Professionalism, duties and responsibilities of teachers, safe schools and free speech</td>
<td>10 hour course</td>
</tr>
<tr>
<td>Lakehead</td>
<td>Bachelor of Education</td>
<td>Education Law 4412</td>
<td>Legal, curricular, organizational and financial factors, which impact on elementary and secondary school educators</td>
<td>3 hour course</td>
</tr>
<tr>
<td>Ontario (UOIT)</td>
<td>Bachelor of Education</td>
<td>Contemporary Educational Practice EDUC 3610</td>
<td>Specific topics discussed are the Ontario College of Teachers’ Act, the Teaching Profession Act, the Labour Relations Act, the Ontario Education Act and related regulations and the Freedom of Information and Protection of Privacy</td>
<td>36 hour course</td>
</tr>
<tr>
<td>Ottawa</td>
<td>Bachelor of Education</td>
<td>Schooling and Society</td>
<td>Focuses on the roles teachers have in addressing social inequalities</td>
<td>3 hour course</td>
</tr>
<tr>
<td>Queens</td>
<td>Bachelor of Education</td>
<td>Critical Issues and Policies</td>
<td>Topics include legal rights and responsibilities as teachers, and adaptive instruction for exceptional learners and equity issues.</td>
<td>3 hour course</td>
</tr>
<tr>
<td>Toronto</td>
<td>Bachelor of Education</td>
<td>Teacher Education Seminar and Contemporary School and Society</td>
<td>The modules address the duties and responsibilities of teachers, professional conduct, safe schools policy and children, families and the law.</td>
<td>Four on-line modules</td>
</tr>
<tr>
<td>Toronto</td>
<td>Master of Arts Institute of Child Studies</td>
<td>N/A</td>
<td>No specific course in educational law</td>
<td>N/A</td>
</tr>
<tr>
<td>Toronto</td>
<td>Master of Teaching</td>
<td>Educational Professionalism, Ethics and the Law</td>
<td>Topics include the Education Act and regulations, Ontario College of Teachers’ regulations and professional misconduct policies and procedures, leadership theories, the legal context of education, parental participation.</td>
<td>36 hour course</td>
</tr>
<tr>
<td>Western</td>
<td>Bachelor of Education</td>
<td>Social Foundations of Education</td>
<td>Contemporary issues in education; legal rights of teachers; professional practice</td>
<td>Multi-discipline course. Note: only part of the course deals with legal issues</td>
</tr>
<tr>
<td>York</td>
<td>Bachelor of Education</td>
<td>No specific course in educational law – on-line module</td>
<td>No specific course in educational law – on-line module</td>
<td>5 hours</td>
</tr>
</tbody>
</table>
2.9 Summary

Maintaining the delicate balance between an educator’s mission and the law will continue to be an ever-present challenge. The direct and indirect statutory rules and regulations which impact on the education system and the supporting landmark court case decisions clearly bring to question the level of preparedness of teacher candidates and indicate a need to examine the role teacher education programs play in preparing future teachers. It is clear that educators find themselves in a very complex role. The teacher education programs in Ontario need to examine the importance of including meaningful and insightful dialogue about the legal and ethical aspects of being a teacher in this province. In doing so, teachers will have a deeper understanding that schools are at the forefront of many social issues; that the diverse group of stakeholders complicate the decision making process; and that the educational system continues to change a very rapid pace. Above all, teachers need to realize that society holds them to a much higher level of responsibility.

It is evident that all these factors can easily make teachers feel overwhelmed. There are no simple answers to all these challenges.
Chapter Three - Methodology

This study will investigate the impact of educational law on beginning teachers. The research methodology will assist in revealing the complex nature of educational law and the delicate balance which educators face when trying to reconcile their professional calling with their professional legal requirements. The description of the research methodology provides a rationale as to why the particular approach is appropriate for this study. The following sections discuss the selection of participants, the collection and organization of the data, and describe a pilot study to validate the interview questions and data sources. The ethical considerations, privacy and confidentiality issues will also be described.

3.1 Research Design and Rationale

In order to obtain a deep understanding of this research problem, a case study approach within a qualitative research methodology was used. Stake (1995) suggests that case study research can be organized into three types. The first type is an intrinsic case study, where the interest is for the purpose of only understanding the particulars of the case. The second type is an instrumental case study, where the interest is in understanding something more general than the case and lastly, a collective case study, where interest is in studying and comparing multiple cases in a single research study. It is the latter, which will be implemented in this study.

The individuals were selected using purposeful sampling (Creswell, 2007). Purposeful sampling involves selecting a number of primary individuals who, because of their position or area of responsibility, can “purposefully inform an understanding of the research problem” (Creswell, 2007, p. 125). The size of the sampling is normally small unless the researcher wishes to “develop a collective story” (Huber and Whelan, 1999).
Stake (1995) suggests that we like to hear the stories that individuals wish to articulate. A case study is an opportunity to investigate common beliefs while respecting the uniqueness of each story.

For the most part, the cases of interest in education and social service are people and programs. Each one is similar to other persons and programs in many ways and unique in many ways. We are interested in them for both their uniqueness and commonality. We seek to understand them. We would like to hear their stories. (Stake, 1995, p. 1)

Storytelling has been a method of enlightening our understanding of self and society. The case studies of the participants will provide insight into the challenges educators in Ontario face. The use of case studies also provides a vision for the enhancement of educational law as a component of teacher education programs.

3.2 Participants

Potential participants were recruited through email and paper invitations. The email and paper invitation includes a brief description of the study along with my contact information. Potential participants were required to contact me if they are interested in participating in the study. From the volunteers, I selected four teachers; two who are in their first three years of teaching and the other two teachers are recent graduates. Two additional participants include a principal who was a member of the Master of Teaching’s (MT) Partnership Advisory Council and a Ontario Teacher Union representative. The school administrator is familiar with the two-year teacher education program and will be able to provide rich insights. The teacher participants will be individuals who attended a two-year teacher program that includes an educational law component.

The reasons for selecting MT graduates, a principal from within the MT program and a participant from the Counseling department of one of the affiliates of the Ontario Teacher Union are specific and intentional. The first reason for selecting a sample of MT teachers is that they
will have completed an extensive initial teacher education that included an educational law component. The teacher union participant and the principal will provide insights into the current legal issues that teachers face while fulfilling their professional responsibilities.

The second reason for the selection of participants is to lay a foundation for future research studies focusing on the experiences of graduates from initial teacher education programs, which include no or minimal educational law instruction. Future comparative research studies may also include Ontario graduates with those of other initial teacher education programs with national and international perspectives.

As an instructor and program coordinator, I have developed strong professional relationships with MT graduates after their tenure in the program. These participants are current educational colleagues. The relationship, which I have developed with these participants, will enhance the level of comfort and candor in their responses, which may not be present with other research studies. As a former school administrator and teacher union executive member, I have maintained an ongoing professional and collegial relationship with members of the Ontario Teacher Union. This level of professional and collegial comfort will add to the credibility of the study.

Potential participants were contacted in order to confirm their invitation for participation in the study and to arrange a date for the interview. Participants were informed of the objectives of the study, methodologies, and their potential time commitments prior to the commencement of the study. Each participant was asked to complete two consent forms: one copy that I will keep, and another copy that will be given to the participant. Participants were informed of their right to withdraw their participation in the study at any time, and, in doing so, their discussion input and responses will not be used in the study.
3.2.1 Master of Teaching Degree

The Master of Teaching (MT) program at the Ontario Institute of Studies in Education (OISE) at the University of Toronto combines professional preparation with academic study. The two-year Master of Teaching in Elementary and Secondary Education program at OISE is a unique program in Ontario. Following a pilot program in 1995-97, it was established in 2000 as a graduate program.

Numerous changes have been made to the MT program since 2000. Refinements over the past few years have included a focus on informatics, communication technology, literacy, numeracy issues and educational law. The two-year degree program is taken on a full-time basis and composed of the equivalent of 16 half-courses, consisting of foundation and curriculum methods courses. One of the foundation courses, CTL7001H Educational Professionalism, Ethics and the Law, enables teacher candidates to analyze the interrelated legal and ethical conditions that shape the classroom context specifically and educational change generally. The Ontario College of Teachers’ regulations and professional misconduct policies and procedures are studied. Topics include leadership theories, the legal context of education, parental participation, and the influence of collegial relationships with students, parents, community, government and social business agencies upon the classroom and the school.

The MT and other two-year teacher education programs need to continue to recognize the changing challenges facing educators in today’s shrinking world. “Teacher preparation needs to be adaptable to the contexts in which its candidates serve while providing grounding in key areas of knowledge” (Broad, Evans, et al, 2008, p. 23).
3.3 Data Collection and Organization

Each participant was invited to participate in an individual interview in order to reflect on and to gain their individual perspectives of the experience in a teacher education program and the level of exposure to educational law. Furthermore, they were encouraged to discuss legal dilemmas in the classroom and in the school community and comment on their confidence and comfort level during these situations. The intent was to gain the participants’ perspectives and beliefs about the impact of a law component within their teacher education programs.

During the interview, participants were asked to clarify/comment on statements that they made. Interviews were audio recorded and transcribed at a later date. Participant names are not be included in any of the data, and pseudonyms are used for each participant to ensure anonymity. No identifying information appears on either the recording tapes or the transcripts.

The interviews consisted of open-ended questions, which allowed the participants to tell stories about their pre-service legal education courses and the legal dilemmas they have experienced in their first few years of teaching.

I recognize that newly appointed teachers may not yet be in a position to answer the questions as fully as those with more experience, but I want to include all levels of experience in the sample to get a better sense of what legal issues educators confront in their profession.

3.3.1 Sample Interview Questions

The main research question investigates how educational law impacts on the professional and personal lives of educators during their teaching profession. Additional questions included in the interview probe specific sub-themes, which provide supporting data. Two sets of questions were developed. The first questionnaire is specific to beginning teachers while the second
questionnaire is directed to the principal and the representative from the teacher union. The list of questions is found in Appendix B and C.

3.4 Data Analysis and Validation

Stake (1995) suggests that there are four forms of analyzing and interrupting data in cases studies: “categorical aggregation, direct interpretation, correspondence and pattern and naturalistic generalizations” (p. 71). The first method is categorical aggregation. By aggregating the data into specific categories, certain themes or issues will emerge. Analyzing the data from the interviews will shed light on the relationship between legal encounters, which teachers may have experienced and their level of preparedness to handle those situations. Creswell (2007) argues that ‘direct interpretation’ allows the researcher to examine a specific situation and garner meaning from it without looking for additional occurrences. A third method of analyzing the data using case studies will be to look for consistency within the patterns, which Stake refers to as ‘correspondence’ within the case. Finally, I developed naturalistic generalizations from the data. This type of generalization is important in that it accounts for the personal or private knowledge of the researcher (Stake 1995). It will inform the reader about the cases and will be used to augment possible implications of this study.

Creswell (2007) suggests that the analysis of data needs to be viewed as “a chronology of unfolding events and turning points or epiphanies” (p. 155). I identified specific themes from the literature review but also search for themes from the data. However, as a starting point, I organized the data using the following themes; appropriate biographical information; length of teacher education experienced by the interviewee; perception of teacher education specific to educational law; legal situations encountered by teachers; level of confidence displayed by
interviewee; approach taken by teacher when faced with a legal issue; and emerging themes between length of program and approaches to legal situations.

The integrity of the research was guided by the use of bracketing which will ensure the level of objectivity of the study. “Bracketing, [where] investigators set aside their experiences, to take a fresh perspective” (Creswell, 2007, p. 59). The researcher’s personal views or experiences were put to one side in order to allow the reader to formulate their own conclusions about the study.

In order to validate the data contained within the interviews, I used member checking as one method of data validation. Once the interview has been transcribed, I shared the transcription with the interviewee. “In member checking, the researcher solicits participants’ views of the credibility of the findings and interpretations” (Ely et al., 1991, p. 208). Based on the feedback received from the individuals, I adjusted the transcript. The second form of data validation involved having the interviewee review my interpretation of the interviews. This took place after coding the data. I recognize that there may be times when the researcher and the interviewee may not agree on a particular interpretation. In one particular case, the participant provided additional insight in order to ensure authenticity to my interpretation of the data surrounding an event.

I recognize the amount of time and effort that is being asked of those being interviewed. I asked these individuals to participate in the interview and I then asked them to verify the interview data as well as my interpretation of the information transcribed from the interview. Intrinsic to this process is that a positive and trusting relationship needs to be nurtured with each of the interviewees. “Prolonged engagement and persistent observation in the field include building trust with participants, learning the culture, and checking for this information that stems from distortions introduced by the researcher or informants” (Ely et al., 1991, p. 207).
3.5 Ethical Considerations

There are minimal risks to participants associated with their own personal level of comfort while engaging in the interview. However, there is a potential risk that a participant may disclose information of a sensitive nature that will require additional follow up. Participants had the opportunity to withdraw their participation at any time. All participation and contributions will be anonymous, and known only to my supervisor and me. Benefits for the participants include having the opportunity to share their experiences and knowledge and perhaps gain a sense of satisfaction that they have contributed to a research study. In addition, participants will have the opportunity to reflect on their understanding and knowledge of educational law in their teaching, thus allowing them to be better prepared to deal with various complex situations that may arise in their school community.

3.6 Privacy and Confidentiality

All the data is stored in a secure place. Only myself, and the supervisor, had access to the collected data. All data was collected and transcribed by me. Each participant has been given a pseudonym from the commencement of the study to ensure anonymity. Any reference to the name of the participant in the transcript was replaced by the pseudonym. Identifying codes that could connect participants with the pseudonyms is kept secure.

All other information about the participant’s school of employment, board of employment, student names, peers, or colleagues has been removed from the transcripts. In any written report, if names and other identifying information are needed, they will be systematically changed and pseudonyms used. In keeping with ethical guidelines, the raw data will be destroyed within five years following the completion of this research.
Chapter Four – Findings

4.1 Introduction

This chapter provides an overview of interviews conducted with six educators. The participants include four teachers who have varying degrees of teaching experience. Two of the teachers have a minimum of two years teaching experience while two other teachers are recent graduates. All four of these teachers completed a two-year initial teacher education program. The final two educators interviewed include a representative from a teacher union, and a principal.

4.2 The Case Studies

In each case, initial teacher education background information is provided about the interviewees as well as a description of their experience as a classroom teacher as it relates to the different aspects of educational law. The sequencing of the cases is specific to the years of teaching experience, beginning with the two most recent graduates. The case studies of the two recent graduates will describe the impact of educational law from their initial teacher education program and from their four practice teaching blocks over the two years of their program. The next two case studies will focus on teachers who have two to three years teaching experience. These case studies will examine the impact of educational law during the first few years of their teaching career. The remaining two case studies from educational leaders in the field will provide insights into the different legal scenarios, which beginning teachers will encounter.

The case study descriptions will focus on a number of emerging themes from the data. Themes include freedom of expression in and outside of the class, teachers’ moral responsibility, the impact of the use of technology, teachers’ legal responsibility regarding custody and child access, and student supervision. The case studies also include insights into the legal implications of a teacher’s relationship with various stakeholders, such as, colleagues, parents and students.
Finally, the case studies also provide insight into educators’ understanding of the legal barriers and the legal enablers of the teaching profession, and the basis upon which educators make legal decisions.

4.2.1 The Case of Janette: Recent Graduate

Janette is a recent graduate of a two-year initial teacher education program. She began her first year as a contracted teacher in September 2009. The interview took place after she graduated from the program (July 16, 2009). Prior to entering the initial teacher education program, she spent seven years as a part time music teacher in a private school setting. During her seven years in the private school setting, she taught grade eight music during the day as well as instrumental band. She is also a performing professional musician trying to balance the two aspects of her musical world.

Janette could have continued in the private school setting and did not need her teaching certificate. However, she wanted to be a better educator and to see what it meant to be a fully qualified teacher. Upon entering into the initial teacher education program, she was hoping to gain a deeper understanding of educational politics and the hierarchy that existed within schools. More importantly, she wanted to be exposed to the ‘secrets of the teaching world’.

During her two-year initial teacher education program, she experienced four practice teaching sessions. When I asked her about the impact of educational law on a beginning teacher, she commented about the vulnerable position teacher candidates find themselves during practicum:

When in schools, teacher candidates can find themselves in a difficult position. They are not fully certified teachers and thus cannot be with students unsupervised, but they are to be considered staff among the teachers, parents, students and administration. This places them in a position of authority. They are educators and have a goal or responsibility to educate their students. While teacher candidates may find themselves wondering where
their place is within an intern school, they should not wonder if their rights for respect differ then those of anyone else. (Interview, July 16, 2009)

4.2.1.1 Freedom of Expression in the Classroom

During my discussion with Janette regarding a teacher’s level of freedom of expression, she began by describing her situation as a high school student. Through the lens of a student, she was interested to see how her teacher would handle the delicate topic of atheism in a Catholic high school setting:

I remember that, in my high school philosophy class, we were curious about how my philosophy teacher was going to address atheism, because we were in a Catholic School. We were studying atheists. We were looking at different ideas, so we were also looking at philosophers who were Christian, but we were also looking at a variety. So, we were trying to see how my teacher was balancing this, because obviously he had his own opinion, we need to look at the facts on both sides. He was presenting both perspectives to us. (Interview, July 16, 2009)

Jeanne believes? Teachers should never feel that they cannot express their own opinion.

However, she did reference a seminar presentation she prepared for the law course she took in her initial teacher education program. The case involved a secondary school teacher who would fit his own views on the Holocaust into the curriculum, and where he only accepted his views of historical the event. She also gave the example of a language arts class and a music class where the students were discussing their favourite author. Janette expressed the view that teachers need to communicate their opinions but in a safe way. She illustrated what she meant by describing a situation that happened during a music class:

If a student came to me in class and said, ‘Miss, I love this music’, and we listened to it, of course I listen to it first [and you can get radio censored versions]. We listened to that in class and a parent says, ‘I hear you were listening to this person's music’. Even if I explained we were listening to the censored version, I would have to be very clear before hand, before the situation even came up, on preparing myself in case this happened. I would have to explain to the parent why, and how this situation came to be. So, we were investigating what they were exposed to - I was not promoting this. I was telling them, if you were walking through a mall, you would be hearing this. (Interview, July 16, 2009)
The parental complaint painted a very grey area for Janette. On the one hand, she feels expressing one’s views in class is fine, yet, in the event of a complaint, she is prepared to re-think the situation. Janette described the conversation:

The parent said, ‘I do not want my son or daughter to have anything to do with this. I do not like this artist. I do not like what they stand for. It presents a very clear image to me. I do not want this in the classroom.’ (Interview, July 16, 2009)

Janette responded by saying:

I very much appreciate your concern. We were pursuing this. I won't be coming back to this, and we are going to be moving on to other things. There is definitely grey. You kind of have to leave it to the teacher's discretion too. But you will have strong opinionated teachers who will say no. I want them to know what I think. It is hard. It is all definitely grey. (Interview, July 16, 2009)

4.2.1.2 Freedom of Expression Outside of the Classroom

Janette described some personal experiences where she expressed her views outside the classroom. She believes that teachers must maintain their professionalism outside the classroom and must remain aware of the fact students or parents may be in position to witness a teacher’s activities outside the classroom:

Then you get into the teachers are in the public eye at all times thing, which is a very interesting concept in itself. For freedom of expression outside the classroom, I can't help but think you are a teacher all the time. You know you are going to bump into your kids somewhere. You are going to bump into your students, or parents, or former students. So, say we had a situation, where a teacher was not anywhere near school property, on their vacation time, or maybe they are participating in a rally for something that would be very opinionated, very strong one way, which would be, maybe, a very sensitive subject. (Interview, July 16, 2009)

4.2.1.3 Moral Responsibility

She recalls participating in a number of pro-life rallies at a time when she really wanted to work for a Catholic school board. However, whenever a teacher is participating in a protest, which is supported by the Catholic school board, there is no guarantee the teacher will be free of parental backlash. She describes participating in a silent protest outside an abortion clinic:
I really wanted to work in the Catholic Board, so I have gone to pro-life rallies. I did forty days of life (a religious activity) during Lent for my church. So we took turns in going to a silent protest outside an abortion clinic. I put time into doing that, so, within the Catholic Board, you are protected by its well-known opinion. Of course you would meet people who didn’t. I am trying to think of how I would deal with parents who would come to me. (Interview, July 16, 2009)

In some way, she felt conflicted. She reflected on the need for teachers who feel compassionate but a particular topic to express their views. She can see how a person who is so passionate about a particular topic is prepared to deal with the consequences of her actions. However, she is not prepared to risk:

If I was doing something that I knew I didn’t have my school's support, or my Board's support, I would have to think very carefully about it. But, if it was something I felt so passionate about… I can’t help but think there are passionate people who find themselves in that predicament, and go with their passion, and therefore not caring what the consequences would be. I can’t see myself in that situation. I weigh everything out. That is just my personality, because I often think of how it would reflect on me and my family and everyone around me. (Interview, July 16, 2009)

4.2.1.4 Use of Technology

Janette feels she has legal rights if a student or parent decided to publish information about her on the Internet. She is prepared to address the issue with the support of her administration. She describes such publications as detrimental to not only her reputation but that of the school as well. She was not clear as to the procedure she would have to follow but she would find out:

Well, if it is slander, then you definitely have legal rights, be it a person as well as a teacher, as an adult. As a teacher, which I would follow what steps I would need to do, because this is not only affecting me as a teacher, but reflecting poorly on the school, on the Board. So they have whatever, I do not know what the protocols offer. But, I would find out. (Interview, July 16, 2009)

We discussed the appropriate use of social network sites such as Facebook. I asked Janette if she felt it was okay for teachers to be on one of these sites:
I think you can be professional, and work with Facebook. I know teachers who are on it. I know teachers, who are careless with it, but I have a number of teachers on a social network that I may be a part of, as well as former students. But I think you can maintain a professional distance as well, while still being social and acknowledging a social relationship that you've had with them. An example I can give is that if you look at Facebook, I have strict privacy settings on mine, so my close friends are open to see everything. They can see all my pictures. They can talk to me. They can contact me - stuff like that. (Interview, July 16, 2009)

I did not pursue her views on the use of Facebook and how her views are a disconnect with directives from the Ontario College of Teachers or her teacher union. However, she did end this section of questioning on Facebook by saying, “Don’t swing an axe if you can’t use it properly” (Interview, July 16, 2009).

4.2.1.5 Criminal Record Checks

Janette finds that records are necessary and helpful. She also found it interesting that certain school boards require more than just a vulnerable records check. In applying to a local board of education in Ontario, she was required to have a record check beyond what is required by the Royal Canadian Mounted Police (RCMP). That way, the school board could cross-reference the police check. She also feels that it is not a failsafe process. She referred to the process as going through a strainer with big holes:

I think that they are helpful and necessary. it is like having a strainer with really big holes, I find, because it does help. It is a good thing, although It is a general good thing that would discourage people with ill intentions. I was very intrigued to find out that another Catholic Board would not accept a police check from the RCMP. It was not good enough – they had to have the police check from the school board specifically, because they cross-referenced it with registered pedophiles, criminals, anyone with a criminal record. (Interview, July 16, 2009)

4.2.1.6 Teacher Relationship with Colleagues, Parents, and Students

One of the most difficult areas for Janette was dealing with colleagues who make accusations. When in schools, teacher candidates can find themselves in a difficult position. They are deemed to be associate members of the teacher unions but are not fully certified teachers, and
as such, they can be with students unsupervised, but would increase potential for liability. They are considered staff among the teachers, parents, students and administration. This places them in a position of authority; they are educators and have a goal or responsibility to educate their students. While teacher candidates may find themselves wondering where their place is within an intern school, they should not wonder if their rights for respect differ then those of any one else. The Ontario Code of Conduct has been put into place to ensure that all members of the school community, especially people in positions of authority, are treated with respect and dignity. The purpose is to promote responsible citizenship by encouraging appropriate participation in the civic life of the school community, and to maintain an environment where conflict and difference can be addressed in a manner characterized by respect and civility (Ontario Code of Conduct, 2007).

Janette describes a situation within a school setting between herself and a fellow colleague. Janette was responsible for leading the Grade 8 Jazz band every Wednesday morning, one hour before school. On the day of her final rehearsal with the band, she brought her baritone saxophone to the school so that she could join in with the students. At the end of rehearsal, about five minutes before nine o’clock, all the students left for class except for a small group of saxophone players stayed who behind to ask Janette questions about her instrument and high school music programs. During first period, the teacher of two of the students who had stayed behind called the classroom on the telephone to ask why her students were late. Janette confirmed that the students had stayed to ask questions and apologized to her for their lateness, but was told that they had used that exact excuse before. In response, Janette told the teacher that this was the only time that the students stayed behind.
At lunch, the staff and all of the teacher candidates were sitting in the staff room eating.

The teacher who was upset approached Janette and clearly announced to Janette’s Associate Teacher that she did not want a particular student to be in the Jazz Band anymore because she:

"Didn't know what was going on between [the student] and your student teacher” (Interview, July 16, 2009). Janette was too upset to respond. The accusing teacher then looked up and saw that Janette was in the room. Janette describes the situation:

The accusing teacher said, ‘Well, [the student] says one thing and she [pointing at me] says another, so I do not know’. I was so embarrassed and offended I could barely explain the situation to the other shocked teacher candidates. Other teachers were staring at me and I was so embarrassed that I left the school property and refused to go back into the staff room. On our prep, I discussed the situation with my Associate Teacher and he expressed his fury at the situation. I made an appointment to speak with the principal and informed him of the incident. (Interview, July 16, 2009)

The Code of Conduct specifically addresses the roles and expectations of teachers and other school staff members. According to the section on Standards of Behaviours, subsection Respect, Civility and Responsible Citizenship, under the leadership of their principals, teachers and other school staff members maintain order in the school and are expected to hold everyone to the highest standard of respectful and responsible behaviour (Code of Conduct, 2007). Teacher candidates are classified as other staff members and should be treated with the same respect and responsible behaviour as all other members of the school community. Needless to say, the accusing teacher was not being respectful towards Janette. It was disrespectful and unprofessional to address the situation so publicly and the comments were extremely offensive and belittling. Because of the negative implications of the comments, and the accusatory tone used, one could view the comments as slanderous. while that is another question entirely, it was an important consideration.
As a teacher candidate, Janette was in the unique position – albeit, a vulnerable one. She was still learning how to be an effective teacher. Janette indicated that this encounter affected her learning and teaching environment in that she felt uncomfortable in her surroundings, was made to feel unwelcome within the staff community and lost confidence with her teaching abilities. The suggestion that there may have been an unprofessional relationship between the teacher candidate and a student can lead to distrust and gossip among staff members. A formal investigation may have been requested.

When Janette described the events to the Principal of the school, he addressed the situation immediately, and agreed that the teacher in question had acted in violation of Janette’s rights and addressed the matter with the other teacher. This situation highlights the vulnerability of teacher candidates during placement:

I would like to say, I am a little more confident with myself right now. It is funny, whenever you find yourself in a situation like that, you think - I thought I was ready for this, but you can't be. Especially if a situation hits you emotionally. You can't really be prepared for that. (Interview, July 16, 2009)

Although Janette wishes this situation will never happen to another teacher or teacher candidate, she can’t help but think if it does, it is important that teachers are prepared to deal with it as best they can. This means sharing these stories with fellow colleagues in a meaningful and direct way:

You cannot sit there and think it is not going to happen, because it is going to, and you have to at least be aware of it. I am more confident about it now is because I have a thicker hide from it. You heal, so you learn from that experience. All I can think about, is the only way to reach someone who had been in my situation, a month before it happened, was for me to tell her and say, you have to at least be aware this could happen to you. No, you have to address it. You have to at least have in your head the possibility of it happening. (Interview, July 16, 2009)

According to Janette, knowing one’s legal rights and being prepared to act on them is critical. However, more importantly, teachers need to be open to the possibility of this happening to them. They need to draw on their own inner strength and draw upon what they have learned:
If you are open with yourself to address that possibility, then you need to understand; so you do not find yourself in a horrible, shocked, emotional state. It is like prepping for a disaster - that is what it is, that is how I feel. You find yourself in a horrible, uncomfortable situation, and you can’t prepare for it. You just have to hope and draw on anything you have gathered in your head. File away the stuff you know you can do, and the way you can calm yourself, and think rationally. Okay this has happened. What do I do? In the situation, only someone’s unique personality will dictate what is going to happen in that moment, but outside of that, that is where you draw back on what you have learned. (Interview, July 16, 2009)

Janette commented earlier in the interview about her views on the use of Facebook by teachers. The topic arose a second time when I asked her to comment on her responsibility and her relationship with students. She clearly sees the importance of fulfilling her supervision duties and to ensure the students are safe at all times. She also believes that maintaining communication with students is an important part of a teacher’s responsibility. Because of the different privacy levels available on social sites, she feels it is safe to socialize with students in this forum:

I have a setting for former students, where they can send me messages and there are a couple of pictures they can see. So I put them up from my performances, or my gigs, or holiday pictures. So I allow things like that, so they can message me, and I can also contact them. (Interview, July 16, 2009)

4.2.1.7 Foundation for Making Legal Decisions

When I asked Janette what she draws upon to make her legal decisions, she used her knowledge of her legal rights and her knowledge of the appropriate policies and school board protocols. Furthermore, she felt it was important to discuss the situation with other colleagues:

What do I draw on now? The knowledge I do have now are the rights and the protocols. You need to know your protocols. You need to know steps of protocols to take. So, in my situation, I found out. I did know, a little bit, but I want to clarify, that I had to talk to other people to find out what the appropriate protocols were, so, again, it is having that clear understanding of steps that you take that there is some sort of path you take for situations like this. (Interview, July 16, 2009)
4.2.1.8 Legal Enablers to the Profession

Although Janette was unable to identify any legal enablers during the interview she reflected on the legal impact her initial teacher education program had on her. She commented on the various topics, which were discussed during the law course:

Ed Law was in our second year. Once a week, we had a three hour class devoted to that. We had the one case study, and, I am glad we didn't have an exam - names and everything. Keegstra, I think his name was. The teacher, who would fit his own views on the Holocaust into the curriculum, and was accused of changing his students' opinions. There were other teachers who were just verbally abusive. You know, when they get shifted within the Board, and moved, and it was never really addressed. These teachers were just moved around. So, it was very interesting to learn the power of our unions, both for good and for worse.  (Interview, July 16, 2009)

Reflecting on her initial teacher education program, Janette believes that the only way to better prepare teacher candidates for any potential colleague conflicts would be to provide them with additional situations. To suggest that these situations won’t happen will be a disservice to the teacher candidates:

The only way I think could better prepare teacher candidates for [Colleague conflict] would be to give them more situations, letting them know that this is going to happen. And very sternly, sitting them down and saying - It is going to happen. You can’t sit there and think it is not going to happen, because it is going to, and you have to at least be aware of it.  (Interview, July 16, 2009)

4.2.1.9 Legal Barriers to the Profession

Initially, she was unable to identify any legal policies, which formed barriers to her role and responsibilities as a teacher. After some thought, she described a school situation, which took place during her third practice teaching placement:

My Associate Teacher told me how one kid had been yanked from the school, completely expelled, and moved somewhere else, because within his behavioural class. He got angry and he threatened someone with scissors. The protocol dictates that, if a weapon is used, they had called the police immediately. Everything had to follow the proper procedures for threatening another student with a weapon.  (Interview, July 16, 2009)
This student, who was identified with special needs, was removed from the class because he had threatened another student with a pair of scissors. He was then expelled from the school and placed in another setting:

The classroom teacher said, that from knowing the student's behaviour and knowing his background, he must have had a really tough morning. His caregiver might not have made sure he had properly taken his medication, whatever medication he was supposed to take. She said, as a mother and a teacher, and knowing the issues in the room, her thing would have been - take the scissors off the kid, tell him to sit down and stop being like this. And, she knows that would have diffused the situation, because she knows the student, and she knew the student well enough to say that. She said it could have been dealt with like that, stopped there, and could have continued to help this student, but, again, she was not there at this time, and the teacher was following the exact protocol. (Interview, July 16, 2009)

Janette’s Associate Teacher at the time knew that the student had a very difficult morning and, if only she was able to talk to the student, she would have been able to diffuse the situation.

However, board policy was very clear about possession of a weapon:

It is funny, kind of that parental instinct that you have, and sort of that maternal instinct that comes in. But, it is for all teachers, that protection and the ability that comes with you from your own experience. I found it so logical what she said, because I could see a teacher doing that, and I have no problem with that. If she knew the student well, maybe it is an old fashioned way of looking at it, but I could see my mom doing that. You can’t learn that, it comes with upbringing. (Interview, July 16, 2009)

4.2.1.10 Summary

As a recent graduate, Janette experienced some serious challenges with one of her colleagues during one of her practice teaching blocks. Although she is a very confident individual, the shock and the emotion of the situation left her less than prepared to handle the matter. However, after taking the time to reflect and discussing the situation with her associate teacher, she was able to address it in a professional way. The experiences left her a little tougher and with a ‘thicker hide’. The experience has prepared her to be more confident in confronting colleagues.
Janette struggled with the level of freedom of expression outside the classroom. She felt quite confident about how to handle in class situations. Janette is a very passionate individual and this was demonstrated when she discussed the rights of teachers to protest. Her own involvement in the silent protest in front of an abortion clinic supported her view that teachers do have a right to express their views outside the classroom. However, she drew the line when the protest was not in concert with school board or ministry directives.

Janette was very clear about her legal rights when she is the target of a student or parent chooses to use the Internet to publish comments about her. If the comments are of a slanderous nature, she knew that she has the legal right to protect her reputation.

Although a novice teacher, Janette, reflecting on her initial teacher education program, provided her views and insight on various legal topics, which were discussed during the law course. She believes that an effective method of preparing teacher candidates for any potential colleague conflicts would be to provide them with real life situations. One of the challenges apparent in Janette’s encounter with a colleague is the level of vulnerability a teacher candidate finds themselves during their practice teaching sessions.

4.2.2 The Case of Jacquelyn: Recent Graduate

Jacquelyn is a recent graduate of a two-year initial teacher education program and she began her first year as a contracted teacher in September 2009. The interview took place after she graduated from the program (July 13, 2009). Prior to entering the initial teacher education program, she was a laboratory demonstrator for an Anatomy professor at University of Toronto. While in Chicago for a summer, she worked at Northwestern University as a Teaching Assistant for Grade 3 math. She completed her Bachelor of Physical Education before entering the two-year teacher education program.
Before entering the initial teacher education program, she did not have any preconceived expectations. She trusted that the instructors in the program will provide the skills and knowledge she required to be an effective teacher. Her program included a research component, and a number of curriculum content courses during the first year. In the second year, courses focused on issues related to teaching. Educational law, professionalism, issues in numeracy and literacy, anti-discriminatory education, and special education were some of the courses in year two.

When I asked Jacquelyn to reflect on the impact of educational law on her as a beginning teacher, she commented:

As much as we would love the teaching profession to be all about the children, their learning, and their growth, teaching requires teachers to know and understand educational law and educational professionalism. And in reality, many of these educational laws and policies are established to help ensure the safety of children, protect teachers and other professionals. (Interview, July 13, 2009)

Jacquelyn goes on to suggest that knowledge of educational law does not necessarily guarantee that educators will make decisions or act in a manner that reflects a teacher’s legal obligation. She identifies four specific reasons: “There are a number of reasons that may explain why our knowledge would not transfer into action, including reasons related to a person’s ability to recognize a situation, the frame of mind and/or emotional state of the person, inexperience in the profession, and being caught off guard (Interview, July 13, 2009).” She elaborates by saying:

Being able to act appropriately requires a person to first recognize the legal situation that might be upon them. This may sound easy but the details of all situations are different and things are always a lot more complicated when a person finds himself or herself in the situation. Second, if a situation is emotionally charged, that may affect the frame of mind or the emotional state of the person, thus affecting his or her ability to respond. Likewise, inexperience in dealing with possible legal situations may also affect one’s ability to act. Finally, possible legal situations may occur suddenly creating an element of surprise for the teacher. This makes incidents difficult to handle as the person may be caught off guard and in shock. (Interview, July 13, 2009)
Jacquelyn recalls how this lack of knowledge transference came to life during one of her recent practicum experience. During one of her lessons, she recalls a grade three student who is withdrawn from his regular class for extra support for two 50-minute periods per week. On the day of the incident, the associate teacher and Jacquelyn had withdrawn the student from his class along with two other students as usual. On this particular day, the three students were to write a math test. The three students, the associate teacher and Jacquelyn were sitting together at the same table. After a period of time two of the students went to the back to work on the computer, leaving Jacquelyn with the other student. Jacquelyn commented on the situation:

After spending about 20 minutes on the test, the student began to lose focus. Unfortunately, I had to press on as the classroom teacher needed to mark from the test so that she could include it in their report cards. The student was getting even more restless and standing up and sitting down in his seat repeatedly. All of a sudden, the student went into a fit of giggles and pulled his pants down to his bare bottom! As he continued to laugh, I firmly said, ‘Pull up your pants. That is not appropriate.’ As soon as I said that, the student realized how serious I was, that what he did was indeed inappropriate, and pulled up his pants. He looked down at his test, and so, trying not to make too big a deal and embarrass him, I said, ‘Let us finish this test’ in an upbeat mood. Inside, I was completely shocked by his actions. (Interview, July 13, 2009)

Jacquelyn questioned why the student would do something like that but she did not at the moment think about the implications of the situation. At no time did she think of telling her associate teacher, the principal or calling the Children’s Aid Society (CAS). The others in the room had not noticed what had transpired. It was only after the students had returned to class that Jacquelyn told her associate teacher what had happened. The associate teacher informed the student’s classroom teacher of the incident as well as the principal of the school, and calling the student’s parents. “The classroom teacher treated the situation very seriously and immediately spoke with the student, asking questions to try to understand why he did what he did. His response was that he was ‘just trying to be funny’. She probed further and he said that it is
something that he and his brother do at home frequently around bath time (Interview, July 13, 2009).”

It was not until Jacquelyn saw all of the resulting follow-up that she realized how serious the situation was. Although she is familiar with section 72 of the Child and Family Services Act, it did not guarantee she would act appropriately:

This is not because I was not thinking in the best interests of the child but because a decision to call CAS, again, is dependent on one’s ability to recognize the situation (which I did not recognize as a possible child abuse situation) and because of the sudden and surprising nature of the incident. Reflecting back on that day, the classroom teacher took quite a bit of time to investigate whether the incident could be an indication of child abuse. (Interview, July 13, 2009)

4.2.2.1 Freedom of Expression in the Classroom

Jacquelyn struggled with the issue of freedom of expression in the classroom. She certainly realized it was important to present both sides of a story but at the same time recognized that teachers have expressed their preference on a particular issue and downplayed the other point of view. She wondered if this was fair to the students:

That is so hard, because I guess it does depend a lot on how you present the other side. I guess if you believe really strongly about something, and you are pushing that - but, I think if you say - this is the other side, and this is what is happening. If you do not brush it aside, and you actually present the other side, then it might make things a little better. I guess. I do not know. Would you be over stepping your boundaries? Oh, that is so hard. (Interview, July 13, 2009)

When we proceeded to discuss particular situations, Jacquelyn was more confident about a teacher expressing her views. She brought up the issue of Canada’s involvement in Afghanistan as a topic of class discussion:

So if you believe that Canada should not be in Afghanistan right now, I think you would be entitled to say that. However, I feel that you should go about doing it in a way that you are presenting both sides of the coin to the students. So that even though you believe this way, you are presenting all of the information, so that they can decide. (Interview, July 13, 2009)
Jacquelyn was clear to indicate that teachers must reassure students that they are not expected to have the same point of view on the issue. They are free to decide based on the information provided:

You are not saying that you should believe this too. You are saying, this is what I believe, and this is the information that is out there, and this has what is formed my particular opinion. You are allowing the students to decide what they believe in. Kind of letting them know it is okay if you have an opinion different from mine. And, it is okay for everyone in the class to have different opinions. (Interview, July 13, 2009)

She goes on to reference a case that was discussed during her law course in her initial teacher education program. The case highlights a secondary teacher who had a very different view of the holocaust. She was trying to define the limits of a teacher’s level of freedom of expression:

For example, I am just going back to that Holocaust case where the teacher said it never happened. That is not okay. Because, there is so much evidence that it happened, that you can't just be in a classroom saying, yeah that didn't happen and having the kids [believe]. (Interview, July 13, 2009)

Jacquelyn references the case and comments on the fact that the students were expected to write about the Holocaust in the same voice as the teacher:

I think part of that case is that he had the kids write certain things that followed what he believed in. So that is not okay. So, I guess it is hard to find that line. You have to look at the different cases and decide. (Interview, July 13, 2009)

The final situation we discussed dealt with whether a teacher has the right to discuss events, which relate to collective bargaining issues within a school board. This particular matter related to impact of class size. Jacquelyn felt uneasy about discussing this topic in class, especially as a beginning teacher. She felt that experienced teachers had more latitude to express their views:

This one is tough because, you never know who's going to hear what you are saying and you never know who your kids are going to speak to later on. It is kind of tough because you are an employee of that particular school board. Unless you are a veteran of the Board, and you are going about trying to bring in change, perhaps you are trying to say, that studies show smaller class sizes improve student achievement, or to implement some
change, then perhaps you can bring all of that into your classroom. (Interview, July 13, 2009)

In the final analysis, Jacquelyn was not prepared to discuss collective bargaining issues in the classroom. For her, she saw this as a career-limiting move. “This is one of those possible career-limiting moves - I do not know. I think I personally would avoid doing that” (Interview, July 13, 2009).

4.2.2.2 Freedom of Expression Outside of the Classroom

When the discussion moved to freedom of expression outside the classroom, Jacquelyn felt it was important for teachers to be aware of their surroundings even in large urban centres:

As a teacher, even outside of the classroom, there are limits. Just think about sometimes when you are out shopping, you might run into a student and their family. I even find if you are in Toronto, you are in a really small world - you never know who is sitting next to you. (Interview, July 13, 2009)

She described a situation where she happened to be sitting at table next to her high school teacher. She expressed her view that teachers are role models and need to respect that responsibility seriously:

I have had instances where I have ran into a high school teacher of mine, having dinner with her husband, and we were the next table over. If she was saying things that could be questionable - unprofessional, that is not cool. I think that you still have to watch what you are saying outside. Just because you are in this particular role and you are a role model to a lot of people. (Interview, July 13, 2009)

I asked her if it was appropriate for a teacher to join a picket line in support of striking support school staff. Although she felt it was okay for a teacher to do so, she felt it is best to avoid any contentious topics. She discussed the fallout of joining the picket line in support of the workers. Taking sides on any contentious issue will possibly create tension or conflict with other colleagues:

Yes, I would think it is okay, but personally I think I would avoid that. What if someone else on staff feels strongly against it? I would say that you are digging a hole causing
possible conflicts within staff. I think it is okay if you wanted to do that and face the consequences, whatever they might be - sure go ahead, but me personally, I think I would just avoid it. I might say to them, yes, I do support you, I think you guys have a good case, but I do not see myself joining them at the picket line. (Interview, July 13, 2009)

4.2.2.3 Moral Responsibility

Jacquelyn has mixed feelings about the expectation that teachers are always to be models of social standards. She understood that teachers are role models however at the same time she felt it is iniquitous her personal life was being affected. Because she is a teacher, she thinks it ‘sucks’ that society has imposed restrictions upon her own private life.

Although Jacquelyn talked about the importance of a teacher being professional at all times, she recognized the difficulty a teacher faces when faced with the loss of their personal freedom. She gave the example of teacher’s right to smoke:

I have had teachers smoke in front of the school while I was still in elementary school and I thought - wow, that is so not cool, because, on the one hand, most teachers are teaching their kids that smoking is bad for you. You shouldn't smoke and then on the other hand you have those teachers out in front of the doors smoking. But, at the same time, you have a right to smoke, so it is like you have to worry about doing something that would get you in trouble. (Interview, July 13, 2009)

Many teachers are members of Facebook as part of their social life and I asked Jacquelyn if she felt teachers need to be careful about what they put on their Facebook pages. She had a very strong reaction to the suggestion that teachers should not be on Facebook. She feels it is impractical to expect teachers to avoid using social networking sites like Facebook:

I think teachers should be able to go on social networking sights - why not? My friend works at the hospital and she stopped posting pictures on Facebook, but you can't control what other people are posting. So, what are you going to do - I am never going to be in another photo again? It is just not practical and it is not realistic. (Interview, July 13, 2009)

The idea that you have no control over what others will do is an interesting point that Jacquelyn raises. She describes the situation where a teacher is a victim of circumstance.
Another person at the party could have taken a picture of you, maybe not knowing that you are a teacher, and posted it on his or her Facebook profile - that person pretty much doesn't have control. (Interview, July 13, 2009)

Jacquelyn’s final comment about a teacher’s behaviour outside the classroom reflects the views of some of the previous participants. One of the more challenging tasks was trying to ascertain where she truly stood on this issue. She was not trying to be evasive but rather she was struggling to decide how to live with the knowledge that her actions and her personal life may be judged by society:

Yes and no - because if teachers have to worry too much about what they do, then, that is a pretty hard way to live your life. But at the same time – no, it is not too demanding, because you are a role model and you picked this profession for a reason. It just comes with the profession. (Interview, July 13, 2009)

4.2.2.4 Use of Technology

Jacquelyn indicated she did not know her legal rights if a school member such as a parent commented on her as teacher on the Internet. Her response to the situation would depend on what the comment was. She was okay if a parent was saying that she was too strict: “If someone says you are too strict. I think I would just go and talk to the parent first of all. Right? Honestly, I have no idea what your legal rights are (Interview, July 13, 2009)”. For Jacquelyn, it is definitely inappropriate to publish false statements about someone. She gave the example of students who go on MSN and say bad things about each other. It is no different when adults do the same thing. Although she is not sure what your legal rights are in situation, she would approach the parent. Her strategy may be different depending on what lead up to the Internet publication.

She expressed a high level of confidence in her ability to confront the parent and asking them to justify what they are saying. She felt the parent needed to justify their actions by demonstrating how their statements as based, for example, on School Board policy (i.e., amount of homework). The reference to school board policy may in fact illustrate the amount of
homework given by the teacher is in line with the policy. She would not pretend it did not happen. She would say something to the parent.

4.2.2.5 Supervision, Custody and Child Access

Jacquelyn discussed the level of active supervision a teacher is required to do. Having a conversation with another teacher during yard duty was not only okay but it was a good time to collaborate. Talking to another teacher does not mean you are unaware of what is happening in the schoolyard:

You both understand what you need to do while you are on yard duty. So you are not going to be engaged in this conversation with each other and clue everything out. You are going to have a conversation, while you are watching everything. I think, personally, that recess time is a good time for teachers to collaborate with each other. (Interview, July 13, 2009)

Jacquelyn goes on to say that it is very challenging for teachers, when in class, to meet with another teacher. Even if you are co-teaching, Jacquelyn feels it is difficult to find to time converse with a colleague. For this reason, Jacquelyn feels it is legally appropriate to use recess as a good time to discuss matters with another teacher. She did comment that talking about school related topics is more justified than discussing personal matters. According to Jacquelyn, the nature of the discussion impacts on the legal correctness of a teacher’s actions while on yard supervision.

If something did happen during recess, Jacquelyn felt that the parent had to prove negligence. She feels it is very difficult to prove a teacher was negligent in their supervision duties:

I think that is pretty hard in reality - to prove that someone was seriously negligent in their duty. Because, the way I see it, when it comes down to it, you really can't see. You have such a large area to cover. Let us say, you were not talking, and you were paying attention, you cannot possibly see everything that is going on. (Interview, July 13, 2009)
Jacquelyn describes a situation where sometimes the students like to come up and talk to a teacher. The conversation may not be about an issue happening the yard but rather a greeting or a story about the child’s weekend. She feels that a teacher cannot turn the child away. She feels the worst that can happen is that the teacher might be reprimanded and told, “next time you should pay more attention”. However, she feels that a teacher on duty cannot see everything. The appropriate number of supervisors on the yard may be the bigger issue.

Jacquelyn felt that the teacher has the responsibility to be knowledgeable about custodial and non-custodial parents. She agreed that the teacher cannot release the child, even though the individual is the child's parent. However, she was not sure where this information was stored:

In terms of the non-custodial parent coming in and picking up the child on a day when they are not supposed to, you might know that in advance. However, you might not know that in advance, but if you kind of figure out their schedule, or ask them what their schedule is, and you know that is not a day that the parent was supposed to come, I think that the teacher needs to find out, like call the parent who has custody. Perhaps that parent forgot to tell you that the other parent was supposed to come and pick up their child. (Interview, July 13, 2009)

4.2.2.6 Teacher Relationship with Colleagues, Parents, Students

Jacquelyn described a situation she witnessed during one of her practicum placements, which involved a conflict between colleagues. At a particular school, most of the teachers did not get along with the teacher librarian. “It was really bad, but the teacher librarian had no idea. All the teachers would talk about her behind her back, would avoid going to Partners in Action periods (Interview, July 13, 2009). Partners in Action periods involved the teacher signing up for a period with the librarian where the librarian would teach the students skills, or discuss the school theme that was being emphasized for a particular month. However, many of the teachers avoided partnering with the librarian. Jacquelyn described the situation as regrettable because the students were being deprived of the opportunity to experience the enriched learning opportunities
that result from team teaching. She was not directly involved in the conflict but wondered how she would handle the matter.

When I asked Jacquelyn if there were any times when she had to deal with a difficult parent, she recalled a mother who was also teacher. The mother was a special education teacher who wanted her daughter to do well. The daughter was a very bright girl but was disorganized. Jacquelyn’s associate teacher at the time felt she might have Attention Deficient Disorder. When the daughter did not score well on tests, the mother would write a note or come in to talk to the Jacquelyn. She describes the situation:

She would write a note, come in and talk to the teacher and talk to me. When I was teaching and grading - she knew, because my AT told the parents that I was there, and I was doing this now. So she would come and talk to me. (Interview, July 13, 2009)

At one point, the mother wrote a note, which had an intimidating tone. Jacquelyn was confident in her position and was prepared to justify the mark she gave her daughter. Jacquelyn justified the grade by referencing exemplars, which she used:

I felt pretty confident writing. I actually wrote her a letter back, and justified why I gave her daughter that mark, based on the exemplar, based on what the other students in the class are doing, based on what I asked the kids to do. I said ‘this is worth a 4, and this is worth a 3’. Based on all that, she didn't accomplish what was asked on the exemplar. (Interview, July 13, 2009)

In this particular situation, the mother accepted the note. The mother wrote back the next day and said she understood. Jacquelyn felt the mother was really trying to show she was serious about marks for her daughter and she was using this note as an intimidation factor. Jacquelyn felt the mother was trying to intimidate her so as to increase the grade, or reconsider her work to boost her mark. However, Jacquelyn described the relationship with the parent to be positive after this event.
During my discussion with Jacquelyn about student teacher relationships, she recalls class debates about whether it is okay to touch students. The impact of teachers maintaining a professional physical distance with students was a concern for Jacquelyn. She does feel that teachers should not refuse to hug a student when they approach you:

I remember these big long discussions, on how you should just avoid touching your students, but at the same time - if the student comes up to you for a hug - you are not going to turn the child away. Because what if that is what he or she needs at that moment? Or, for example, what if the child fell and they just need someone to hug. You're not going to think - No, I can't do that. I think educational law does have a huge impact on everything that you do. (Interview, July 13, 2009)

4.2.2.7 Foundation for Making Legal Decisions

Jacquelyn feels a teacher needs to think about is right and wrong and to draw upon what the law states. The other sources of information she would draw upon are her colleagues and her administrative team:

What do I draw upon? I think you have to think about what is right and what is wrong. If you know there is a law pertaining to what is going on, you would obviously think back to that. Another source of information - I think I would go talk to colleagues, talk to your administrative team. Figure out what is the best course of action. (Interview, July 13, 2009)

She does comment that sometimes the situation is such that a teacher may not have the time to consult before acting. In those situations, the teacher needs to decide what the best course of action is:

That depends on what type of scenario you are in, because you might not have the time - you might have to deal with something right away. You might not necessarily have the time to go talk to someone or consult with someone. (Interview, July 13, 2009)

4.2.2.8 Legal Enablers to the Profession

Jacquelyn recalls a law class presentation on teacher appraisal. She recognizes teacher evaluations as important but unsettling:
It is important and probably nerve wracking to get evaluated on how you teach, but I think that that law is there for a reason – it is important that that quality is there and there is someone evaluating the teacher every so often that they are still practicing - best practices. (Interview, July 13, 2009)

In her view, educational law sets teaching practice standards. She recognizes that every teacher is required to meet these standards and by doing so, it instills confidence not only in yourself but in the fact that your colleagues are meeting or exceeding the standard as well.

Another area where educational law was described as being helpful was during Jacquelyn’s description of teacher criminal record checks. She views them as required, but not necessarily totally helpful:

I think they are necessary because the public puts so much trust in teachers that I feel that they need to see that happen. But you still hear about all these stories, like child abuse - if a person did get a criminal record check back, that does not necessarily tell you that that person might later on commit some sort of offence. (Interview, July 13, 2009)

4.2.2.9 Legal Barriers to the Profession

Jacquelyn’s initial thoughts were general in nature. She felt that a teacher could be so pre-occupied with the law and lose sight of what is in the best interests of students:

If you are so worked up about something, and you do not want to do something wrong – you are kind of forgetting about the kids, maybe not forgetting, but they are kind of pushed to the side a little bit. (Interview, July 13, 2009)

She recalls the example of hugging a student and notes the additional challenge facing male teachers. She worries about what some of the teachers might be thinking. Even if it is a legitimate hug, she believes some teachers are worried about their actions. She feels badly for male teachers who have to decide what to do in this situation:

If you come back to the kid coming up to you for a hug – I cannot imagine personally what it would be like if you are a male teacher. If someone saw me giving this child a hug – even though it was totally legitimate, totally proper, it might cause them to think twice about doing it, and that would affect your relationship with your kids. I guess as a female teacher, it is not so bad. (Interview, July 13, 2009)
4.2.2.10 Summary

Jacquelyn understands the importance about being knowledgeable about educational law. However, she feels that teacher candidates do not receive enough instruction in educational law. She believes that all Initial Teacher Education programs need to mandate a course, which is dedicated to educational law. She believes that there is a place for ongoing learning opportunities, workshops, or access to publications that focus on educational law and present it in a format that is not too technical. At the same time, Jacquelyn suggests that knowledge of educational laws that guide a teacher’s responsibilities is not enough. Knowledge of the law does not necessarily ensure that educators will take the appropriate steps. She feels they are a number of reasons why knowledge does not necessarily ensure compliance with legal requirements. Her reasons include a teacher’s ability to recognize a situation, the frame of mind and/or emotional state of the teacher, lack of experience in the profession, and being surprised by the action.

For Jacquelyn, the issue of a teacher being constantly in the public eye left a significant imprint. She talked about a friend and colleague who had very strong views on the matter. They constantly talked about the implications of this legal and ethical expectation. The perception of losing one’s personal freedom was clearly an issue for Jacquelyn.

Another area, which impacted on Jacquelyn, was professional misconduct. Although being a member of Facebook does not necessarily translate into professional misconduct, the nature of the photographs may be deemed as being less than professionally appropriate. For Jacquelyn, this was an area of major concern. Just as disturbing was a teacher’s responsibility to file a complaint about a colleague because of his or her conduct. Jacquelyn felt less confident about dealing with the fallout of having to provide the colleague a written copy of the complaint.
Student supervision was another area, which worries Jacquelyn. As a teacher candidate on yard duty, she wonders about the legal impact of constantly talking with her associate teacher. If something were to happen, Jacquelyn is uncertain about her level of liability. More importantly, it is interesting to note Jacquelyn’s view that the nature of the discussion between two teachers on supervision duty impacts on their level of supervision.

As a recent graduate, Jacquelyn presented herself as a very confident individual. However, she did have questions and feelings of uncertainty about her legal responsibilities as a teacher. While she viewed teacher criminal record checks as necessary, she did not feel they were totally helpful.

She was unsure about her legal responsibility when dealing with non-custodial parents, and she struggled with societal expectations, which impact on her private life. She does respect the importance of being a positive role model but opposes the restrictions. She thinks that ongoing learning and knowledge about educational laws and policies is essential in the teaching profession. Jacquelyn believes this knowledge will help to inform her actions and possibly avoid making the wrong decision in legal scenarios. In some cases, the teacher’s action only occurs after some personal reflection and consultation with colleagues. Jacquelyn’s insights are reflective of her four-practicum classroom experiences.

4.2.3 The Case of Richard: The First Two Years

Richard is thirty-three year-old male who teaches grade 7 and 8. He brings a background in financial planning to the teaching profession. Richard left the financial environment shortly after completing a Financial Planner Degree to pursue a career in education. He also holds a Master of Teaching Degree. His initial two-year teacher education program included a full half
course in educational law and ethics. He was interviewed at the end of his second year of teaching (July 28, 2009).

He is currently teaching in a Catholic school, which has 379 students from JK to grade 8. The majority of the students come from an urban middle class English-speaking environment. According to the 2008 data from the Education Quality Assessment Office (EQAO), only 3% of the grade 3 students and 7% of the grade six students come from a home where English is not the first language. The students performed extremely well on the grade 3 and 6 large scale assessment testing. The 2008 EQAO test results indicate both the grade 3 and 6 students achieved grades well above the school board and provincial average (www.eqao.com). The school has a very active Catholic School Parent Advisory Committee.

**4.2.3.1 Freedom of Expression in the Classroom**

When discussing the issue of freedom of expression Richard felt it was necessary to be very guarded about expressing his views as educator in the classroom:

That can be a potential situation where you do not want to express your personal opinions because that can get you in trouble and truthfully, the way I see it, and the way the Board sees it – I am not there to express my personal opinions. (Interview, July 28, 2009)

He also felt that his level of freedom of expression was even more restricted because of his role as an educator within a Catholic school board:

I think that it is one that is guarded – I will say that. Expressing my own personal opinions or convictions regarding many, I will call them socially charged issues, being in a Catholic School. In fact, gay marriage is an issue, same sex marriage is an issue, even talking about God and celebrating different traditions can be an issue for some students who come to this school, who are also welcome. Perhaps do not celebrate certain traditions or what have you. (Interview, July 28, 2009)

Catholic school boards in Ontario expect their teachers to follow the tenets of their Catholic faith. This explicit Board expectation clearly goes beyond the classroom as Richard discussed his views regarding freedom of expression outside of the classroom.
4.2.3.2 Freedom of Expression Outside of the Classroom

When I asked Richard to express his views about the level of freedom a teacher has outside the classroom, he was very clear about a teacher’s responsibility. According to Richard, teachers have an unmistakable duty to be professional at all times:

It is like you are always on call and if my students were to see me on TV, being in that professional role, saying what I believe, and the way I conduct myself can be persuasive to students, so I think I still need to be guarded in that sense. (Interview, July 28, 2009)

One of the experiences that shaped his views in this area was his initial teacher education program. Richard referred to courses he took during his initial teacher education program where case studies were used to discuss real life situations. The use of case studies as a methodology provided an opportunity for the teacher candidates to challenge their current thinking in a real life context:

What I love the most about those courses were the case studies, because I felt that having discussion around case studies was extremely important because those are typically the real life scenarios - okay what if this happens, what is the best course of action. I guess in one sense, deep down, I somewhat knew what the most prudent person would do. Coming from the financial industry, we talked about the prudent man role. When you're advising someone, you need to do what a prudent person would do in that scenario. (Interview, July 28, 2009)

Reflecting on his initial teacher education preparation, Richard felt it was essential that teacher candidates be provided with the opportunity to discuss and deconstruct case studies of real life school situations. In this way, beginning teachers will be better prepared to deal with legal issues:

I think sharing these stories, is extremely important, because chances are, a lot of people will encounter this throughout their educational career. Definitely sharing more case studies. I think, also, learning what the law does say? What does the law say about my on duty report - you know my yard duty? Where are my responsibilities? How much legal trouble can I get into, not because I am so irresponsible that I will get into trouble, but more in a sense of, I just want to know how well protected I am. (Interview, July 28, 2009)
4.2.3.3 Moral Responsibility

Probably one of the most difficult areas of the interview occurred during the discussion surrounding the concept of a teacher being in the role all the time. Although Richard talked about the importance of a teacher being professional at all times, he acknowledged the difficulty a teacher faces when confronted with the loss of their personal freedoms:

I believe that, as a person in a position of responsibility, it is very important that I guide myself, or at least exemplify the characteristics and the qualities, that parents or the general public would want to have in their own children. (Interview, July 28, 2009)

One of the more difficult tasks was trying to define what was appropriate and what was inappropriate off-duty behaviour for a teacher. As a profession, society views teachers as a moral compass of society. In fact, many stakeholders, parents and guardians in society believe that teachers should be role models, which mirror a strong ethical standard. Richard tried to define this societal perception:

I am not sure if I can tell you. It is a fine line or if there is a grey area there with [societal perception]. I guess, we are dealing with people’s perceptions, what someone else perceives, what I perceive as being appropriate behavior might even be considered by someone inappropriate. Where again, not doing something might be perceived, my inaction might be perceived as inappropriate. (Interview, July 28, 2009)

During Richard’s initial teacher education program, the issue of a teacher’s professional conduct outside of class became a focus of a class discussion. He recalls how some teacher candidates did not view this matter as a significant component of a teacher’s life. He remembers stating, “oh my goodness, I didn’t realize how important this really was.”

4.2.3.4 Use of Technology

Parents and students have been using technology, specifically, the Internet to publish comments about teachers and many beginning teachers do not see the level of serious damage that such public comments can have on their career and their reputation. Despite Richard’s
educational background and experience, he was not overly concerned about students or parents publishing comments about him on the Internet. He also unaware of his legal rights should such a situation occur:

> It is easy to say sitting here doing an interview, saying that I wouldn't care or it wouldn't bother me. But had I been on rateyourteacher.com or something like that and if the comments were negative, I would have to say, I would explore the rights. So, then again, if the comments were negative, I do not know what my legal rights are. (Interview, July 28, 2009)

### 4.2.3.5 Schools as Social Entities

In his discussion about the role schools play within a social context, Richard felt the need for schools to play significant role in social justice matters. The school, in his view, often reflects the social norms of the surrounding school community. He believes that schools are a reflection of society and yet, schools find themselves dealing with competing interests:

> I think, to a large extent, we are a micro-causim of society, and it would also depend [on] what neighbourhood you are in. Often we do have a myriad of needs, competing of interests of a school scenario. (Interview, July 28, 2009)

Working in the publically funded Catholic School system in Ontario, Richard expressed the need for teachers to respond to a higher ethical calling – to work with international groups that aim to better the living conditions of society:

> I was going mention one other thing about the program of social issues, which I do not believe it is relegated strictly to Catholic schools or religious schools, but we definitely practice what we feel is a higher calling to help those in need around the world whether it is through organizations. (Interview, July 28, 2009)

### 4.2.3.6 Teacher Relationship with Colleagues, Parents, and Students

Relationship building with various stakeholders, whether it be colleagues, parents, or students was a huge eye opener for Richard. Richard describes a situation at his school where he found himself at odds with a fellow teacher about a student. The matter was quite serious as he remembers a class discussion during his initial teacher education about dealing with colleagues
and deciding if “that is the hill you want to die on” (Scarfo, 2007). Richard describes the situation:

In terms of dealing with teacher colleagues, I remember a legal ethics course we took. The instructor was talking about being careful, which hill you want to die on when you are battling. Do you really want to enter that battle? I had a personal scenario, where I was protecting a student. Our school was used by a separate (heritage) program. There was a permit to use our school, and a student had a project on display. (Interview, July 28, 2009)

The content of the student’s display invoked an emotional response for the other teacher and it resulted in an escalating conflict among students, teachers and parents. Student projects were being vandalized, letters were written, and comments were exchanged. Richard was not sure what to do:

I had no idea what the proper thing to do was, but it ended up being a very difficult situation, because that teacher colleague happened to be from that same country that was politically charged. The issue was more about the student for me, and the students not dealing with the scenario, escalating issues, students writing letters back and forth and vandalizing each other's work. I perceived that to be the issue, and the issue was perceived to be something else by the colleague. (Interview, July 28, 2009)

Richard continued to discuss the implications of this situation on the students, and on the school and ultimately on his own reputation. He was concerned about pending legal action and whether the school board would support him in any litigation proceedings. He has a number of unanswered questions in his mind and he is unsure of his legal rights and responsibilities:

What if the parent is a lawyer? What if someone is money hungry and they want to sue the school board and sue me? Am I going to be caught up in three years of legalities? Is the Board going to defend me. You talk about this in legal ethic’s [course], but you kind of forget what are my rights, or what are my responsibilities, or can I get in trouble for this? (Interview, July 28, 2009)

His sense of uncertainty became even more evident when he talked about his indecision to approach the principal about this matter. He did not want to be perceived as being incompetent, yet he expressed the need to be able to address the challenge:
Do I want to be running to the principal every five seconds? Am I going feel incompetent if I do not, or to the principal do I look incompetent? Those kinds of thoughts crossed my mind, but also in terms of how I deal with that scenario? One of those realistic situations, that ‘oh my goodness’ didn't even cross my mind, but what would I do in that situation? It kind of puts you on your feet and I like that, because in the real world, often, you need to be able to think at a moments' notice about what the right course of action is. (Interview, July 28, 2009)

During the confrontation with the colleague, he was reluctant to take the matter to his principal. It was clear to see that he was concerned about how he would be viewed by his administration. He commented a number of times about not wanting to be perceived as incompetent if he had to ask the principal for support.

However, he did want to bring the situation to resolution. He approached the local teacher union representative to discuss the matter and acquire their support. The union indicated that they do not get involved in member-to-member conflicts. Richard was prepared to take the matter to the Ontario College of Teachers. In the meantime, a school board arbitrator was appointed to hear the case. In the end, Richard wrote a defense letter, which was vetted by the arbitrator. Eventually the board superintendent acknowledged receipt of the letter and contacted Richard to inform him of his support. At no time did the other teacher provide a retraction of her comments.

As a teacher, Richard expressed some possible situations where parents are involved. He recalls a discussion during his initial teacher education program where he describes the dialogue as very animated and spirited. It was clear from the discussion that Richard felt the relationship that teachers have with their students’ parents is a complex one. Although he did not reference conflicting viewpoints that teachers and parents may have about educational issues (i.e., homework, discipline), he did describe a tension that potentially can arise between a parent and a teacher:

I can give you one example that stood out in one of our class discussions, which were highly animated and energetic. We talked about one story, about the teacher being the
moral compass. There were a couple of scenarios, one was perhaps a parent/teacher coming on a school trip. If a parent wanted to come on a school trip, and after a while we realize this parent is volunteering extremely often, or is frequently visiting the classroom. You get the sense that perhaps the parent has taken a liking at more than a volunteer level - like maybe yourself as the teacher, or someone else at the school. What do you do in that scenario, and how do you react? I think it was very beneficial in terms of what do you say, and more importantly, what do you not say? (Interview, July 28, 2009)

Probably the most troubling issue for Richard is the relationship that teachers develop with their students. As a male teacher working with grade 7 and 8 students, he became quickly aware of the precautions he needed to put into place in his classroom. He describes the advice he received from his associate teacher during his first practicum teaching block:

I will never forget. I was walking into my first practicum. It was a grade 8 classroom and having intermediate boys and girls and being a coed school, he gave me the advice, that when you are setting up your classroom, always place your desk directly in line with the door, so that if you happen to be dismissing students, and a girl happens to be left behind, or straggling to get out, and you happen to be a male teacher left in the classroom with a girl, or female student, you want to be in line view. So, if someone was passing through the hallway, they are in your plain view. (Interview, July 28, 2009)

He was clearly concerned about any physical contact with his students. At the same time, he also recognized that it was very natural for these students to express their gratitude by hugging the teacher. The age of student certainly complicated the issue:

When they would leave, when the students were finishing practicum or the term, a lot of students would go to give him a hug, and he would just put his hands in the air, fully in the air and think oh my goodness, do not touch me please, I am not hugging you back. (Interview, July 28, 2009)

Finally, Richard discussed the limitations that educational law has placed on him in terms of assisting his students. He describes the situation of working with students in extra-curricular activities – more specifically, transporting students to different sporting events. As a male teacher, he feels uncomfortable transporting his girls’ volleyball team to a tournament unless there is another teacher in the car – preferably, a female teacher. The dilemma that faces Richard
is if he cannot get another teacher to join him, does he deny the students the opportunity to participate in the event?

This is the biggest one that I find is driving students to extra-curricular activities. This is a current present reality for me in coaching chess, coaching girls’ volleyball. There is a worry, I can't be the only male driver in the car with girls, and so we make sure there are two teachers. I hope male and female but I hope if not, two males, but that, then our Board tells us specifically. Our union strongly recommends that you do not drive, but the reality is that if you do not, no one is getting to the event. So, there is a constant battle. (Interview, July 28, 2009)

**4.2.3.7 Foundation for Making Legal Decisions**

When I asked Richard to tell me what he uses as the basis for making decisions that are of a legal nature, he replied by telling me that his uses his common sense. He also believes that it is important to take time to make a decision and not to be forced into making a quick determination. I found it interesting that he did not reference any legal regulations, the Education Act or any board policy documents. In the example that he provides, he also does not reference the Safe Schools Policy:

Definitely, common sense. Again, what would a prudent person do? I am dealing with a situation right now, So, I will give you an example. A parent called me today about a student with a bullying issue that took place a couple of weeks ago, possibly a month ago in our school. Often as a teacher, students do not come forward with certain problems and the same perpetrators were involved, bullying the same person, but it was not known to teachers or staff, but a parent brought it to my attention. And now I am struggling with what do I do. Do I bring it to the principal? Do I deal with it myself? Do I take what the parent said as factual information or is it hearsay? I look at as common sense and I need to sleep on it. I might bounce it off my principal or a teacher colleague, just to get their feedback. Again, that is one of those real life case study scenarios of what should I do? Right now, I am looking for feedback from others. But definitely doing the common sense approach. Not reacting right away. Definitely taking my time. (Interview, July 28, 2009)

**4.2.3.8 Legal Enablers to the Profession**

In terms of how the law can enable a teacher, Richard discussed the importance the Education Act and specifically the Family and Child Services Act, which, empowers teachers with the responsibility to report any suspected child abuse case. Although there are many issues
related to this responsibility, the most important aspect is that a teacher by their actions can help to protect a student from harm:

The Education Act has many laws and that would enable me to enact my duties as a professional – one of them being my duty to report. I can protect a child if I was aware or worried that a student may be in a dangerous situation. I can make sure that student is not about to go home and get another black eye for example, by reporting to the Children's Aid Society, that student might be in danger. (Interview, July 28, 2009)

4.2.3.9 Legal Barriers to the Profession

Richard felt it is important to support and to affirm a student’s accomplishment but not to the extent of affirming a student’s success physically. He believes that the law does not allow him the latitude to give a student a pat on the back. According to Richard, teachers, especially male teachers, need to be very cautious:

In terms of barriers, I would say that when I talked about the one case where you just motivated them to learn their multiplication table, whatever, something, anything and a student is so happy, and you want to say ‘hey, good for you’, you give a kid a pat on the back. That is where you have to be careful. You cannot ever put your hand on a student, even if you patted them on the head and said ‘hey, good job’. That is one area - hands off. (Interview, July 28, 2009)

4.2.3.10 Summary

During Richard’s first few years as a teacher, he encountered a number of legal issues from reporting suspected child abuse to confronting colleagues on matters of professional differences of opinion. He felt very confident about his legal duty to report. He even saw this responsibility, as an empowering aspect of being a teacher and he felt comfortable discussing the matter with administration.

Richard also felt he had a responsibility to be a role model both inside and outside the classroom. This included keeping his personal views private when discussing matters in front of the class. Because of his conviction to teach in the Catholic school system, he was very comfortable presenting the tenets of the Catholic faith during class and modeling those beliefs
outside the classroom. However, he had difficulty trying to strike a balance between presenting church doctrine and moving beyond those responses and handling student questions which may reflect the social context of their community.

Teachers are expected to use technology as a means to communicate with students and to enhance student learning. However, Richard was unclear about his legal rights when a student or parent chooses to use the Internet to publish comments about him.

The largest area where Richard felt least prepared was dealing with relationships with students, parents and colleagues. He firmly believes that a no touch policy is the only way to conduct oneself to protect teachers from any legal action from students or their parents. It is quite understandable that teachers need to be very careful about the kind of physical contact they have with students. Perhaps, it is the safest way to avoid any litigation or rumours from starting. He did comment that the law was a barrier to fulfilling his role as a teacher in this situation. However, one wonders how many students are in need of a hug and are denied the affirmation.

When Richard was faced with the matter of collegial conflict, he initially hesitated to bring the matter to the attention of school administration. As a beginning teacher, he felt concerned about how his principal would perceive him. However, he was determined to bring the matter to resolution. After approaching the local teacher union representative and receiving no guidance or support, Richard was prepared to take the matter further by contacting the Ontario College of Teachers. In the meantime, a school board arbitrator was appointed and supported Richard’s side of the case. In the end, the board superintendent also contacted Richard to inform him of his support.

A noticeable underlying theme in his responses was how his level of confidence assisted him in sticky legal matters. However, to rely solely on one’s common sense can prove to be
wanting. He commented on his need to be more knowledgeable about his legal responsibilities and his legal rights. In order to provide teacher candidates with a more intense and more realistic understanding of the teaching profession, Richard feels that the length of the practicum needs to be extended. Instead of the usual four and five weeks teaching block, he feels that the practicum needs to be at least eight consecutive weeks. By doing so, teacher candidates will have a deeper understanding of the culture, social and legal context of the school environment.

Finally, in reflecting on his first few years in the teaching profession, he takes his responsibilities seriously and has a profound willingness to make a significant difference in the lives on the students under his direction. He believes that teachers cannot be passive observers and need to respond in a professional and caring manner. He also believes that knowledge of educational law and knowing how the law protects teachers will enable educators to better fulfill their mission.

4.2.4 The Case of Melodie: The First Three Years

Melodie is completing her third year of teaching as a long-term occasional teacher with a Catholic district school board in Ontario. Currently, her teaching assignment is in a combined grade 3/4 classroom. Prior to completing her two-year initial teacher education program, she was a part-time summer dance instructor, and for five years worked in a local hospital in the labour and delivery room. She continues to work part-time in patient records at the same hospital. She currently holds an HBSc, and a Master of Teaching degree. She was interviewed at the end of her third year of teaching (July 9, 2009).

Her initial two-year teacher education program included a full half course in educational law and ethics. Prior to commencement of the two-year initial teacher education program, she was expected to acquire practical strategies that would enable her to be effective in the
classroom. Reflecting on her two-year teacher education program, she feels that her key points of learning were experiencing the practica, and the educational law course. She recalls learning about the Education Act and talking about the responsibilities of being a teacher. She recalls how the professor would bring in case studies for class discussion.

4.2.4.1 Freedom of Expression in the Classroom

Melodie indicated that she does not have total freedom to say what she wants in the classroom. She stated she does not have the right to indoctrinate her students and that they are not to be viewed as blank slates. As well, being a teacher in the Catholic system, she also feels that there are certain things she cannot say in classroom:

Well I do not think I am able to indoctrinate my students. I do not think that they are a blank slate that I can tell them... what my thoughts and opinions are on particular issues. But being in a Catholic school there are particular things that I cannot say. So I do not have complete freedom to say what I think about particular issues. However that being said there are many issues that I do not think would be appropriate to speak with young children about. I think you always have to be careful about what you say being a teacher. (Interview, July 9, 2009)

4.2.4.2 Freedom of Expression Outside of the Classroom

According to Melodie, the level of freedom of expression for a teacher does not change when they are outside the classroom. However, she makes the distinction between making comments in a public forum, such as in a restaurant, as opposed to comments in a private setting.

Whether she is in the classroom or not, she feels she is still viewed by society as a teacher:

Freedom of expression in a public space does not change, as I am still viewed as a teacher. In the event that a co-worker, parent, administrator see/hear me, I have to be careful of what I say when in public. I think that when you are with your close friends and family you can communicate more openly about particular issues. But if you are in a public space, for example in a restaurant talking with girlfriends about say abortion, we are still going to be quiet. I always think ‘what if parents of one of my students are sitting next to me?’ (Interview, July 9, 2009)
4.2.4.3 Moral Responsibility

When we began to discuss the issue of a teacher always being in the public eye, Melodie had some mixed feelings. On one hand, she understood that teachers are role models. However, the same time, she felt it is unfair that her personal life was being affected. Because she is a teacher, she feels it is unfair that society has imposed restrictions upon things she can do within her own private life. More often than not, she feels that she is checking not only her conversation but also the way she dresses:

I often think about my clothing when I am off duty. For example, after a long weekend, I returned to class and one of my students told the class that she saw me at the airshow with a boy. I immediately thought about what I was wearing and what I was doing!! God forbid if I was dressed inappropriately. I would be embarrassed if that was the case, and would not be an appropriate role model. I think that, as a teacher, it has been ingrained in me that I need to ‘play and dress the part.’ More often than not, I catch myself analyzing my outfit just in case I run into a student. And if I am on a date, I do worry about running into students or their parents! (Interview, July 9, 2009)

Melodie continued to express her discomfort about being a teacher who is constantly in the public eye. She referred to her current age and felt that individuals should have the right to enjoy their youth. However, she expressed the need for teachers recognize that they are perceived as role models in society:

On the one hand, I understand because we are supposed to be role models for them but on the other hand, I feel that it is my personal life and what I choose to do on my own personal time should be my prerogative. Why am I being dictated by society what I can and cannot do? That is the part that I do not appreciate. Everyone has been young and everyone has gone to the bars and had their pictures taken having a drink, so how am I any different? That being said, if a student saw pictures of me on the Internet when I am drunk then that is not appropriate. That is not being a good role model for them.

Melodie recalls a case study that was discussed during her law class where a teacher had a part time job in another town on the weekends. The part-time position (exotic dancer) is not generally viewed by society as an appropriate occupation for a teacher. In Melodie’s view, she
does not feel society should judge this individual because the information about her part time job did not get back to the school:

I personally thought that it was okay [that the teacher was a dancer in another city]. I thought that she was going to another city so let her do what she needs to do. We do not know the circumstances of her life. We do not know her financial situation and so sometimes people need to do that and so that is her right. (Interview, July 9, 2009)

When I asked Melodie where does one draw the line between appropriate and inappropriate off-duty behaviour, she had difficulty describing what that would look like. However, it seems that the activity is okay if it does not become public. Perhaps that is where the line is drawn according to Melodie:

Where do you draw the line? I do not know. I think it is okay for girls to go out and have their girls’ night at a bar and have a few drinks. But I think it needs to stop at digital cameras and taking pictures and posting them online. I think that teachers need to start worrying about that. Teachers can go out and have fun but make sure that nothing is being documented and posted online … I think that you have a sense (of where the line is). When I am in my neighborhood where I know that is close to my school, I know what I can and cannot do. When I am in downtown Toronto with the girls, I know what I can do there because my grade 5 student is not going to show up. For me, personally, I know what I can do and what I cannot do and I can do things as long as it does not end up on the Internet. (Interview, July 9, 2009)

Melodie is committed to teaching in the Catholic school system and she was very comfortable discussing the principles of the Catholic faith and modeling those beliefs outside the classroom. However, she expressed difficulty trying to strike a balance between presenting church beliefs and moving beyond those responses especially when students ask questions, which challenge church doctrine. She feels there a lot of restraints being in a Catholic school:

In today's society, we are being bombarded with media about gays and lesbians. But in a Catholic school, if a child brings up that they saw two girls kissing, we are not allowed to talk about it. So that social norm exists but the Catholic system is neglecting them. (Interview, July 9, 2009)
4.2.4.4 Use of Technology

When we discussed the issue of technology and how parents or students may in fact use the Internet to express their opinions about teachers, Melodie was unclear about her legal rights. Melodie suggested that, if the parents think that they are assisting the public by providing information that is perceived to be helpful to them and to the school community, then, it is okay to do so. However, if the information is going to impact negatively on the teacher’s reputation than Melodie expressed displeasure with the action. Melodie wondered about her rights:

What are my legal rights? If you look at defamation cases, if the parent thinks that they are helping the public by saying that the information is helpful to them, then the law sees that as okay. How do I personally feel about it? Well obviously if it is going to impact my reputation, then I do not like it. (Interview, July 9, 2009)

4.2.4.5 Supervision, Custody and Child Access

Melodie has a very good understanding of her responsibilities with regards to custody and child access cases. She was very clear as to what documentation needed to be in place in the Ontario Student Record (OSR) file before she would release a child to the parent.

In my school, it is important that we understand exactly who has custody of the child and if the child is going to be seeing the non custodial parent there has to be explicit instructions given to us by the custodial parent. If there is not any of that information sharing then I am not to have any communication with the non custodial parent. (Interview, July 9, 2009)

However, when she described a particular situation in her school, it became quite apparent that Melodie was not pleased with the outcome. She described the sadness that teachers experience when they find themselves upholding the legal requirements of their profession. In a particular situation, Melodie had to tell a step-mother that she could no longer communicate with her regarding the children:

I had these lovely twin boys and there were custodial issues. They were neglected, and they ended up with the father. The father remarried so the boys had a stepmother. Up until grade 4, the stepmother had stepped up and played the role of parent. She would make
their lunches, and come to all parent teacher interviews. I got this child in grade 4 and we were looking through the OSR and we did not have any documentation that she was a caregiver. The VP asked me to call her to ask for proof that she has access to the child and, until we got that proof, I was not to communicate with her anymore and she was not allowed to come to the parent teacher interviews or sign permission forms. This poor mother, who had been involved for 4 years. I had to tell her that I could only speak with the father. I think it is the worst thing that could happen because these two boys who had a mother involved was suddenly cut off. It was very sad. (Interview, July 9, 2009)

The lack of a court order in the OSR prevented Melodie from continuing to develop a positive relationship with the step-parent.

4.2.4.6 Teacher Relationship with Colleagues and Parents

Although the above situation was troubling for Melodie, she expressed confidence in her abilities to work with parents and colleagues. She referenced other professions and their ability to maintain a positive relation with parents:

I feel very confident as a professional. Just like doctors and nurses and lawyers, I am a professional teacher. If someone questions what I am doing as a professional, I feel confident that I can support what I am doing based on my education and experience. (Interview, July 9, 2009)

Her response is reflective of her extended initial teacher education program. She alluded to the fact that her teacher education program provided her with the theoretical framework and the research foundation to remain confident in her abilities to deal with parents. With respect to dealing with colleagues, she also felt very confident about her abilities. However, she described the role that teacher union plays when there is a conflict between two colleagues:

According to our union, if a teacher has a problem with another teacher, the first thing they have to do is confront the teacher and put it in writing. How would I deal with that? I would appreciate that. I am one who gets along with everyone in the school, and it is important to maintain communication with everyone. I think that I am very open so I think that people would come and talk to me. I think that it is fair. Sometimes teachers need gentle reminders. (Interview, July 9, 2009)
4.2.4.7 Foundation for Making Legal Decisions

In making legal decisions, Melodie described two areas, which impact on her abilities. She felt first and foremost that she relied on her own set of values and morals. However, when it came to dealing with more complex legal issues, she referenced using other background information:

But inherently….Oh my morals and values. It depends on the issue. For example, the day that I took the class to the museum. If you see a child mistreating someone then my morals kick in. But bigger issues come from background information and the education I received. (Interview July 9, 2009)

It is interesting to note that Melodie suggests that, if it was not for her law classes, she would not have given a second thought to some of the legal dilemmas that educator face. “If I didn't take any law courses, most of the things I do I wouldn't even give a second thought (Interview, July 9, 2009).”

Reflecting on her initial teacher education program, Melodie felt it was essential that teacher candidates be exposed to educational legal matters. They need the opportunity to discuss and analyze case studies. She also believes that providing online law modules is a good start but is not enough:

I definitely think that every single teacher should go through some type of in-service at least, to inform them about what is the law and where to find the law and how they can educate themselves about it. I think it is important to have teachers in the same room dialoguing and debating about issues because that is when you start thinking about things and they stick with you. (Interview, July 9, 2009)

Reflecting on her first three years in the teaching profession, she ponders some of the legal dilemmas that teachers face on a regular basis. She believes that teachers cannot take a passive role. They need to examine each situation and respond in a professional and caring manner. In her next quote, she describes a situation during a school trip to the museum. She
believes that knowledge of educational law can protect teachers and it will enable educators to make decisions, which are in the best interest of children:

I constantly think of how I present myself to others. I constantly look at others in school and think that they should not be doing that or they should be doing this. I always think about legal ramifications. For example, we were going on a school trip to a museum and the teacher said I am going to give the parents a scavenger hunt for the whole day and I am going to let them take the group. I did not know if that was okay to just let the parents go. What if something happened to the kids? Who would be responsible? (Interview, July 9, 2009) 

4.2.4.8 Legal Enablers to the Profession 

When asked whether she felt the law provided her with the support to be more effective in her profession, she had difficulty responding. She did however, comment on the value of record checks. She felt that a record check is necessary and it provides the public with a sense of comfort that their child’s teacher has been vetted in this manner:

I think that, considering that the public is trusting their children to us, I think it is helpful and necessary and a requirement for them to know that we are good people who are looking after their children during the day. (Interview, July 9, 2009) 

4.2.4.9 Legal Barriers to the Profession

When asked if she felt there were any laws that got in the way of being a teacher, she had a number of situations in mind. She felt that students have lost out on some programs because of the legal cases, which have gone to court. The physical education programs in the past always had a gymnastics component. Because of law suits and fear of student, injury gymnastics is part of only very few physical education programs:

I used to love gymnastics but we cannot do it anymore. And why is that? Because they are too afraid of what might happen - due to foresee ability in case a child gets hurt. But what if a child is really good at it but they do not have a chance to do it. There is also driving someone home. (Interview, July 9, 2009)

One other area that she mentions is in regards to teachers driving students home. Although she did not go into a lot of detail, she feels that teachers can no longer offer to drive students home.
As a result, students are in situations where they are left waiting a long time for their parents to come and pick them up.

Another area that Melodie commented on with regards to legal barriers deals with a teacher’s reluctance to respond to student affection. Melodie accepts hugs from students but is very careful about how she receives them. It is interesting to note that she is aware of some male teachers who also accept hugs from students. She does comment on her concern about what other teachers think when they see her accepting hugs from the students:

I let them hug me. I give them the side hug. I always know if another teacher sees me, I wonder what they are going to say. But they normally do not comment. It is important. Kids need love. If they want to hug me, they can. The male elementary teacher, those that I know, they are willing to hug. But that being said, in intermediate/senior kids are not hugging each other. So I do not know if that is a gender issue. The male elementary teachers that I have seen, it is fine with them. They are very comfortable and out there. I think that primary children will hug any adult, regardless of male or female. (Interview, July 9, 2009)

4.2.4.10 Summary

During Melodie’s first three years as a teacher, she faced the challenges, which many supply teachers and long-term occasional teachers encounter. She displayed a level of confidence when discussing legal issues such as custody disputes, reporting suspected child abuse and confronting colleagues on matters of professional differences of opinion.

Melodie also felt she had a responsibility to be a role model both inside and outside the classroom. However, she felted it was somewhat unfair that her private life was affected by her responsibilities of being a teacher. This included keeping personal views to one side when discussing matters in front of the class. Melodie is dedicated to teaching in the Catholic school system and she was very comfortable discussing the ideology and philosophy of the Catholic faith and modeling those convictions outside the classroom. However, she expressed difficulty dealing with the tension between presenting church doctrine and moving beyond those responses
especially when students question church tenets. She feels there many challenges being a teacher in a Catholic school.

Melodie was unclear about her legal rights when she is the target of a student or parent chooses to use the Internet to publish comments about her. She goes further on to say that if the public interest is being served, then it is appropriate for a parent to publish comments about a teacher.

Melodie was very clear about her rights when dealing with a colleague. She felt that the intervention of the teacher union was necessary if the two colleagues are unable to resolve the issue at that level. In terms of physical contact with students, her views are quite clear. Melodie feels that students need affection and teachers are doing students a disservice if they do not respond to those student needs. It is quite understandable that teachers need to be very careful about the kind of physical contact they have with students and Melodie commented on the importance of using “proper touches”.

Melodie expressed that teachers need to be well prepared for the legal challenges that they will face while in the teaching profession. By providing opportunities to engage in professional conversations and to analyze case studies, Melodie felt teacher candidates will be exposed to educational legal matters in a meaningful and thoughtful manner. Reflecting on her beginning years in the teaching profession, she contemplates some of the legal predicaments that teachers face on a daily basis. Teachers need to be active and confident when dealing with parents and colleagues.

Teachers cannot take a passive role. They need to examine each situation and respond in a professional and caring manner. She believes that knowledge of educational law will protect
teachers and it will enable educators to make principled and sound decisions, which ultimately will benefit the students under their care.

4.2.5 The Case of Sandra: The First Two Years as Principal

Sandra is principal at a large, affluent, urban public school. There are approximately 709 students, of which, 486 students are in grades kindergarten to three, with the other 223 students in grades four to six. There are very few students attending the school who were born outside of Canada. As of the spring of 2008, there were only three students who have lived in Canada for two years or less and only eleven students who have lived in Canada for three to five years. The school also has a child-care centre, which provides year-round care for approximately 130 students.

This school has been actively connected with a two-year teacher education program. The school supports the underlying principles of the two year program and has continually provided teacher candidates with meaningful placements.

The school has a very active and involved parent community. There is a strong parent school council, which is involved in a number of school wide activities, including providing input into educational issues such as anti-bullying, technology, and student safety. The parents regularly volunteer to assist with field trips, tutoring, the library, graduation and the student attendance program. The impact of a very affluent and active parent school community on the staff becomes evident during the interview.

Sandra brings 15 years of experience as a teacher and vice principal to her current position of principal. At the time of this interview, she is completing her second year as a principal. Sandra completed her four-year honour undergraduate degree at an Ontario university
and following the completion of her undergraduate work she completed her Bachelor of Education and her Masters of Education degree.

Sandra’s teacher education program was one year in duration. The program addressed curriculum and program expectations, as well as, effective instructional strategies. The standards of practice from the Ontario College of Teachers were discussed and the role of the teacher in school and in the school community. The educational law component of her teacher education program focused on liability scenarios for teachers including a teacher’s responsibilities as outlined in the Ontario Education Act. Although a small amount of time was dedicated to educational law: “I wouldn't say it was extensive, but we did talk about educational law. It was part of a course. I would probably say a two day session throughout (Interview, July 11, 2009).”

Educational law was an area that fascinated Sandra. She feels it is important to know the responsibilities related to a teacher role. Her teacher education program dedicated a large amount of time to equity and inclusive curriculum. She felt the focus on equity supported her in her role during the first teaching days as a certified teacher. She previously worked in an inner city school, where equity and diversity really supported her in terms of assisting the families and the children in her class.

Legal areas that she recalls from her initial teacher education program included a teacher’s legal requirements on field trips and during extra-curricular activities. Many teachers are involved in field trips and coaching teams: “that is what every teacher does. Covering yourself, and making sure you are not leaving yourself at risk as a teacher, and students in your care. Making sure you have adequate supervision (Interview, July 11, 2009).” Sandra recalls from her program the liability issues related to transporting students to tournaments and other off-
school events. After fifteen years of experience as an educator, she clearly believes that faculties of education need to incorporate a substantial educational law component:

The faculties, I believe, should have to deal with law and teacher liabilities. It is really important for teachers to know before they get into a career in front of children, what legal ramifications could potentially take place. I strongly believe, that before they actually enter a classroom, that they know what they are up for. (Interview, July 11, 2009)

4.2.5 Freedom of Expression in the Classroom

The level of parental involvement in the school influenced Sandra’s view of a teacher’s latitude with regards to freedom of expression in the classroom. She was quite direct in her views that teachers, while in the classroom, should avoid expressing personal opinions. Teachers should reflect school board policies and procedures. As an employee of the school board, teachers are expected to speak to the values and philosophy of the school board: “They are ok if they speak policy and procedure, and they speak school board values and mission statements. So we need to ensure those missions are abided by and also supported in what they do in the classroom (Interview, July 11, 2009).” Sandra believes this is an interesting debate in light of the current climate within schools with an affluent parent body:

When you are giving personal opinion, you are moving down a rocky road, especially with our caliber of parents - well educated and knowledgeable and understand and know different debates in society. So, it is an interesting question that you asked me, because I think that truly a teacher should not provide personal opinion in front of a classroom, because what we want to do is expose multiplicity of voices of kids and have them determine their own thinking, be critical thinkers on their own. We want them to develop critical literacy thinkers in our children. (Interview, July 11, 2009)

Apart from the political fallout, which may occur, a teacher who has a very strong voice in the classroom may result in student voices being camouflaged. Clearly, according to Sandra, teacher personal opinions are not appropriate in a classroom setting, particularly if the view is contrary to a school board directive: “No, I do not think it is appropriate especially when their employer has made a different decision. You always have the opportunity to go to school board meetings, if
you feel differently. Your voice can be heard there. A teacher needs to show more discretion (Interview, July 11, 2009).

**4.2.5.2 Freedom of Expression Outside of the Classroom**

The way teachers express themselves in public should not be any different from when they are in the classroom. Sandra holds herself to the same standards when she is outside of the school and she maintains teachers have the same level of responsibility. When she leaves the school at the end of the day, she does not change who she is: “When I leave at night, I continue to wear my principal hat and my integrity stays with me. I do not change who I am (Interview, July 11, 2009).” She believes it is really important for a teacher to do the same thing. They need to consider themselves as a whole person, not only in a classroom, but also in the evenings and during the weekends: “They are in the public light, in the spotlight. They work with children, so you really have to watch and manage what you do and what you say (Interview, July 11, 2009).”

In social gatherings, Sandra expects the same level of professionalism:

> When you are out for dinner, you never know who is sitting at the table next to you. So you really have to be on your guard, and you want to be the best person you can be. I do not believe your thinking should change (Interview, July 11, 2009).

**4.2.5.3 Teacher Off-Duty Behaviour**

Sandra found the discussion surrounding the impact of a teacher’s off-duty behaviour an interesting one. She referred to the number of cases described in the Ontario College of Teacher’s publication, *Professionally Speaking*. The publication lists current legal cases that the College is investigating. She wondered about the appropriateness of teachers “hanging out at a bar on Saturday night and acting inappropriately or making rude remarks in a grocery store where a parent is standing in line (Interview, July 11, 2009).” Sandra believes that teachers need to see the importance of acting professional at all time. “So you really need to watch, it is really important
for you to show that you are professional. I think a professionalism aspect should be with you at all times (interview, July 11, 2009.

When she reflected on the current situation with her own staff, she expressed confidence that they act professionally outside the classroom:

To my knowledge, I find the teachers in this building act professional, especially outside of the school, and, to my knowledge, we have not really had discussions of inappropriate behaviour, in terms of any staff member acting inappropriately outside of the school. However, I know it has happened, and I think a professional discussion with the admin team and the teacher is appropriate. (Interview, July 11, 2009)

She does indicate, ‘to her knowledge’, she is unaware of any inappropriate behaviour outside of school. It is interesting to note that she is prepared to discuss the matter with any teacher if, in fact, a situation does arise. When I asked Sandra to try and define the boundaries for a teacher’s off-duty behaviour, she struggled with trying to balance a teacher’s private rights with society’s expectations of teachers:

That is a tough question, because people do have the right to their private life, but if it is in the public light and you are outside in the open, you really need to maintain that professionalism, and act with integrity. So, I would ask, is it appropriate to go out and get sloshed with a few drinks on a Friday or Saturday night? Especially if you know you are in the school neighbourhood, and at the local pub. It is very inappropriate. If you are in Mexico, or somewhere else on a Caribbean Island - I am not saying it is more appropriate, but you are away from the school. (Interview, July 11, 2009)

For Sandra, it would appear the ‘line in the sand’ for a teacher’s off-duty behaviour is determined somewhat by the proximity of parents and students. A teacher may be less concerned about their off-duty behaviour if it takes place outside the community, better yet, outside the country.

4.2.5.4 Use of Technology

Sandra addressed two areas of concern with regards to the use of technology. She referred to teachers being the target of student backlash on the Internet and the implications of teachers being on social networks such as Facebook. Students use technology to make hurtful remarks?
about other students. Technology is also be used by students to make damaging comments about a teacher’s reputation:

The Internet should be used as a form of communication, and a form of - show and tell, for what the children achieve at school. Publishing personal comments about a teacher is inappropriate. There is a website, that some teachers have alluded to, that some of the kids go on there, and rate their teacher. Some of the comments can be hurtful and it is inappropriate for anyone to be using that. (Interview, July 11, 2009)

The Internet has made it extremely easy for a great deal information to be disseminated to a large number of individuals very quickly. Teachers need to be diligent in educating students to work with technology in an ethical manner. In doing so, teachers will be protecting other students and fellow colleagues.

The second area of concern for Sandra is the use of social networks by teachers. She feels strongly that teachers need to be very cautious when using social networks:

It is a dangerous road, because you never know who has access to Facebook. So, in order for a teacher to be on it, I always tell them – ‘proceed with caution, and, remember, whatever you put or say on Facebook, it could be on the front page of any newspaper the next day’. (Interview, July 11, 2009)

4.2.5.5 Custody and Child Access

In Sandra’s school, many of the children come from single parent homes and she indicates that it is quite common for one of the parents to have sole custody. “We have many single parents at our school. Yes it is a common thing that one parent has sole custody (Interview, July 11, 2009).” It is also a very affluent community and parents will come to school demanding that the teacher release the student to them. “I have had issues where the other parent who does not have custody comes into the building and tries to ask for the child (Interview, July 11, 2009).” Sandra states that teachers need to be aware that the school cannot release the child to the non-custodial parent. To add to the complexity of the custody and access issues, Sandra noted
that, “we also have days of share custody, when dad gets the child and when mom gets the child at different times during the day (Interview, July 11, 2009).”

There have been situations at the school where the non-custodial parent is demanding access to their child’s information. Parents who do not have their legal rights documented in a court order have confronted teachers. Sandra was very clear that teachers are not required to provide information unless it is in a court order:

We do not honour non-custodial requests for student information because they are not actually on the court order. In one case, the father was persistent in obtaining information. As a result, the mother took more legal action on her side to prevent it. (Interview, July 11, 2009)

4.2.5.6 Teacher Relationship with Colleagues, Parents, and Students

Sandra acknowledges that there have been times when tensions have arisen between colleagues as well as between teachers and parents. Before intervening in the matter, the principal is careful to not to step into the conflict until she has determined the context of the situation. “I try to step out of the conflict, because those conflicts can be union issues, especially if it is one teacher against another teacher (Interview, July 11, 2009).” The role of the teacher union in these matters can cause a principal to back away from the conflict. In doing so, teachers may find themselves with little or no support from administration. Sandra advises teachers that this is a discussion that needs to be had between the two of them and, if any complaints arise, they need to put it in writing to each other. She also informs them, if asked, to provide a copy to the teacher union as well. “In terms of daily conflicts, disagreements - I am here to support and mediate if that happens, and provide my best advice if I can in terms of policies and procedures (Interview, July 11, 2009).”

Sandra also noted that conflicts among staff are common at her school:
I think it was prevalent in this school in particular, because it is such a large staff – you are going to get difference of opinions, and personalities, and not everyone gets along as well. Most people are professional, but I have had to deal with issues where there has been some name calling. (Interview, July 11, 2009)

During Sandra’s first year as a principal at this school, she had to deal with two teachers who went beyond name-calling. During a disagreement, one teacher physically shoved a colleague. “When I first arrived, it was very interesting, where I had one [teacher] shove another. It did not go far. The teacher who actually received the shove did not pursue any kind of legal action (Interview, July 11, 2009).”

Much like collegial disputes, Sandra has seen a fair number of conflicts between teachers and parents. For the most part, Sandra acknowledged that teachers prefer to solve the conflict at the school level. Most of the meetings between parents and teachers include a representative from the teacher union and the principal. In Sandra experience, the matter rarely goes to court:

I would not say [teachers] do not pursue [parental harassment]. Teachers try to deal with the issue, and there is a lot of support around that – whether it be a union member sitting in on a conversation. But, getting to the terms of it actually going to court, I have never seen that happen. But there is some mediation. (Interview, July 11, 2009)

4.2.5.7 Foundation for Making Legal Decisions

It is not surprising that Sandra draws upon a number of resources for making legal decisions. As a principal, Sandra is expected to be knowledgeable of specific regulations and policies, which impact on the school, students, and teachers. She believes teachers need to be aware of legal liability issues, especially when taking students on field trips:

I focus on legal liabilities, and I try my best to support - especially new teachers to get them to learn and know about the education act. We have an excursion process and policy at the school that they need to follow, including writing out forms for excursions. (Interview, July 11, 2009)

Teachers find themselves in so many different situations and each one has a legal implication. Every day is different and there are so many different scenarios that will affect teachers. Sandra
believes teachers need to be able have a list of resources to draw upon when dealing with legal issues. “There are so many more issues today to deal with as a teacher and an educator in schools. There are many different scenarios that could fall into place for teachers, and every day is different (Interview, July 11, 2009).”

Sandra believes teachers need to feel confident enough to approach administration when they are faced with a legal dilemma. Apart from approaching school administration, teachers need to be aware that school boards in Ontario have legal firms to assist with legal situations. Teachers also need to see the value in approaching their teacher union. Teacher unions provide a variety of support resources for beginning teachers. Sandra acknowledged the importance that teacher unions play in the daily lives of teachers. “I have had teachers approach the administration team and me. I know some of them go to their union. That is the common place for them to find out information (Interview, July 11, 2009).” She also commented on some of the resource material, which is available from the teacher unions. For example, the Elementary Teacher Union of Ontario publishes a magazine entitled Voice, which presents insights into current issues facing teachers in their schools.

Finally Sandra encourages teachers to avail themselves of ongoing professional development. Courses such as the Principal’s Qualification Program and recommended books in the area of educational law will be very helpful for teachers. “I truly think that law is something that every educator needs to know about, for themselves and the kids in front of them and the families (Interview, July 11, 2009).”

4.2.5.8 Legal Enablers to the Profession

Sandra expressed her support for the new safe schools policy. Teachers are now in a better position to support students. Previously, schools had very little choice when a student
committed an infraction against the old safe schools policy, which was based on a zero-tolerance philosophy. “We do not just send kids home on suspension now. We have school support and great programs now to support the kids. So, [suspended] students are not off at the mall – gallivanting (Interview, July 11, 2009).” She believes having a safe school’s policy contributes the overall safe climate within a school.

The protection laws for students are also welcomed. Teachers have the right and responsibility to contact Children’s Aid Society of Ontario when a child discloses an abuse. Sandra commented that one of the first year teachers at her school was approached by one of the students. The student expressed concern about the manner in which she was treated. The beginning teacher, with the support of the principal reported the disclosure:

We had a new teacher and she had to make the first call ever to the Children’s Aid Society. She was fine with it, but it was twofold - What do I say, what do I do. I walked her through the procedure and was right there with her in the room, and we filled out the forms together, and we made the call. (Interview, July 11, 2009)

Sandra also feels the introduction of mandatory criminal record checks for staff is positive step in protecting students. She feels that criminal record checks are necessary and it creates a climate of security and assurance within the school community. According to school board policy, employees must declare their offence on the school board website:

It is really important to know whom we have as adults working in our school. Employees cannot have criminal records against them if they wish to work with children. I think they are really necessary. We have a list, that is posted on the school board website, and they have to declare their annual offence declaration every year. (Interview, July 11, 2009)

4.2.5.9 Legal Barriers to the Profession

In her response to the question about legal barriers, Sandra highlighted the difficulty that schools and educators face when confronted by an angry parent. She strongly believes that the
laws surrounding parents who are harassing teachers need to be easier to implement. She also feels the role and powers of a principal need to be deepened:

Stricter laws need to be made, in terms of parental harassment, and I guess the power of the principal needs to be strengthened. I would say – to have more autonomy in a timely manner to state to a parent that they are on private property and they cannot be coming in swearing, and using all kinds of language. There are many hoops to go through before you actually impose a trespassing order. (Interview, July 11, 2009)

Her comments showcase the ongoing challenges that schools face when dealing with parents. It is not so much the actual legislation that concerns Sandra but rather the process that one must follow before serving a trespass notice to a parent.

4.2.5.10 Summary

Although relatively new in the position of principal, Sandra brought her fifteen years of experience as an educator to this interview. Her views regarding the importance of educational law for beginning and experienced teachers were very clear. Her own initial teacher education program, though lacking a significant dedication to educational law, impressed upon her the importance of professionalism and issues of teacher liability. This sensitivity to professionalism and accountability was very evident in her responses.

The composition of the school body and the socio-economic status of the school community present a clear and ongoing challenge for the teachers and the administrative staff. The parent community is very involved within the school and there is an active and powerful parent school council. The impact of a well-educated and affluent parent school community lead to many complaints by staff about parental interference and parent harassment. Although no parental harassment situation went beyond the school level, it was necessary to involve the teacher union representative during meetings with the school administration. Teachers found themselves stressed by these events and the principal stated that school board and provincial
policies need to change in order to strengthen the principal’s legal ability to impose trespassing restrictions on uncooperative parents.

The level of parental involvement in the school also had an impact on Sandra’s judgment with regards to a teacher’s level of freedom of expression in the classroom. She remained very loyal to school board policy and procedures requirements and she expects the same of the teachers. Since teachers are employees of the school board, they are expected to adhere to board policy. They should avoid expressing any personal opinions, especially if it challenges school board policy. She was unwavering in her views that teachers should avoid expressing personal opinions while in the classroom. She did comment that the school community climate added to the need for teachers to be careful in the classroom. Perhaps in a different school community the parameters may be less stringent. This does speak to schools and their teachers are impacted by the social norms of the community in which they teach.

Sandra expects teachers to conduct themselves professionally at all times. She believes teachers need to adhere to the professional and ethical standards as outlined by the Ontario College of Teachers. When we discussed specific scenarios, she conjectured about the appropriateness of teachers drinking to excess in a local pub. Yet, she was less concerned about a teacher’s behaviour outside of the school community or outside the country. The boundary for a teacher’s off-duty behaviour is determined to a certain extent by the proximity of parents and students. When she commented on her own staff, she expressed confidence that they act professionally outside the classroom. She is unaware of any inappropriate behaviour outside of school but, if a situation should arise, she is prepared to discuss the matter with the teacher.

Sandra believes that the inappropriate use of technology by students and staff was a major concern. Because the Internet allows for information to be circulated to many individuals
very quickly, she feels that teachers who were victimized by student criticism on the Internet found their self-esteem and reputation damaged. According to Sandra, the use of social networks by teachers was also seen as potentially impacting on a teacher’s reputation and credibility. Teachers need to be cautious about what they post on a social network.

In Sandra’s school, many children come from single parent homes and the issue of parental access to their children is a growing concern for teachers. In most of these cases one parent has sole custody. She feels strongly that teachers need to be aware of the legal responsibility of following the directive found in a court order. The school can only release the child to the non-custodial parent subject to the conditions stated in the court order. Sandra explains that shared custody arrangements add to the complexity of the custody and access issues. Furthermore, information about the child cannot be released as well, subject to the court order. She feels this places teachers is a very difficult situation should the non-custodial parent demand information about their child. Sandra indicated that non-custodial parents have confronted teachers in her school.

While disputes between colleagues have occurred at the school, it is interesting to note that the principal preferred to stay out of the conflict if possible. She feels that, in most cases, the teachers can resolve the issue and, if not, the teacher union representative should be called in.

Beginning teachers are in a vulnerable position at the best of times. I suspect should there be a conflict between a beginning teacher and one with more experience; the beginning teacher is less likely to take the matter to the school administration. In these situations, beginning teachers find themselves with little or no support. Sandra admitted that tension between teachers was quite common at the school. Her advice to teachers is to put it in writing and provide a copy to each
other and to the teacher union. In one situation, a dispute between two teachers went beyond name-calling and became physical.

As a principal, Sandra draws upon numerous resources to guide her thinking regarding a legal matter. In the same way, teachers who deal with students, parents, and colleagues on a daily basis need to be able to have a list of resources to draw upon when facing legal issues. Teachers need to feel comfortable about approaching administration and school board personnel regarding a legal matter. Teachers need to be aware that school boards in Ontario have legal firms to assist with legal situations. Teacher unions provide counseling services and support material for beginning teachers.

Sandra also commented on the role of faculties of education. According to Sandra, Initial Teacher Education programs should have a profound impact on beginning teachers. Regulations and legislation govern what a teacher can do and say, and it is incumbent on faculties of education to inform teacher candidates of their legal rights and responsibilities. She feels that it is critical that legal issues are discussed extensively. The faculties of education have an obligation to deal with law and teacher liabilities. Teachers need to know the legal ramifications of their decisions before they begin their career.

Although Sandra felt that the Education Act and the accompanying regulations provided much support for teachers, she did draw attention to the difficulty that schools and educators face when confronted by a disgruntled parent. Teachers need to be protected from aggressive parents and she strongly believes that the laws surrounding parents who harass teachers need to be reviewed.

She referred to the new safe schools policy, specifically Bill 212, as a progressive piece of legislation and said that the underlying intent of Bill 212 is to support students and use
progressive discipline strategies rather use the zero-tolerance philosophy. She feels the new legislation will place teachers in a better position to support students.

Sandra assisted a number of beginning teachers who needed to contact protective child services agencies in Ontario. She reminds teachers that the Child and Family Services Act provides protection for students and that teachers have the legal responsibility to contact Children’s Aid Society of Ontario when a child discloses an abuse. Finally, Sandra also believes the introduction of mandatory criminal record checks is positive step in protecting students. She feels that criminal record checks are essential and they provide a sense of confidence within the school community.

4.2.6 The Case of Maryanne: Teacher Union Member

Maryanne is an experienced educator who, for the past two years, has worked for an Ontario teacher union. Maryanne has a very strong Science background and is an active member of the provincial Science Teachers’ Association of Ontario (STAO). She has held several roles within the organization including facilitating conferences. She was a curriculum writer and a consultant for a textbook series. She is currently completing her Master of Education degree.

She has been with the union for a total of eight years off and on since 1999. Maryanne has worked extensively with beginning teachers, specifically, teachers in their first five years.

Maryanne believes teachers are very interested in educational law, especially how it impacts upon them and their classroom. They become even more open to discuss legal issues once they have a few years teaching experience:

Once they have been in the classroom a year or two, they can hear what you have to say differently. They are no longer trying to figure out how to survive tomorrow and get through the content. At that point, I find they are much more open talking about the educational law piece. (Interview, August 15, 2009)
Maryanne completed a specialty initial teacher education program. She was part of an Experiential Outdoor Education Program, at a university in Ontario. Her program at the faculty of education was 10 months in length with an additional 6 months of outdoor educational practica. The educational law component of her initial teacher education program was comprised of a single session in an auditorium:

I remember being taken into a big auditorium. There were several of us. It was an early morning. I remember getting a really scary talk about educational law. And, it was all kinds of stuff flying out at once, and that is what I remember about the educational law piece. I remember it had an impact on me, and it was scary impact, is the way I would describe it. (Interview, August 15, 2009)

The lecture focused on liability, supervision, and duty to report. Maryanne also commented on the fact that she did not really process the information. She kindly suggested that the early morning start may have contributed to the failure to internalize the material:

Liability, I remember that was the big word. Teacher liability, and the fact that I was going to be liable. I remember things like, I was responsible for the students, and if they were hurt in my presence, or I was not supervising them appropriately, there were liability issues. It was never really processed, and that is about what I remember about educational law. (Interview, August 15, 2009)

She remembers talks about Children’s Aid Society of Ontario and the role teachers had to play if the child was hurt. She commented the ‘sensational pieces stayed’ with her, from stories heard in that presentation, rather than the content of the Education Act:

Your eyes have to be open in the Faculties of Education. It may have almost had a negative impact on me at that point, but I knew it was important. I was not sure how it fit in to what I needed to know, and it really was not on my scope. I was then just trying to survive. They were important issues, if it impacts you immediately. (Interview, August 15, 2009)

4.2.6.1 Freedom of Expression in the Classroom

She does not think a teacher is free to say and do whatever they want in a classroom. According to Maryanne, there needs to be a standard of professional language, professional
expression, and building respect with young people. Teachers should not bring their own specific opinions into a classroom because they are shaping young minds. So, ethically, they need to provide a wide, broad perspective, and not just their own opinion coming into a situation.

4.2.6.2 Freedom of Expression Outside of the Classroom

Maryanne expressed the need for teachers to be able to talk openly about certain issues. However, she felt the need for teachers to remain professional when they leave the classroom:

For example, when you are coaching, you are still in a role model situation with young people. I do not care, if you are coaching in the community, or you are coaching in the school, you are still at role model status. (Interview, August 15, 2009)

In a much larger public forum, she thinks a teacher does require some breath to have an existence outside of their professional lives and their schools. The problem is that teachers will have other young people watching. She does believe that teachers should have a certain amount of freedom of expression outside of the classroom.

When I asked Maryanne if she could define where is the ‘line in the sand’, she approached the question both as a representative of a teacher union and then provided her own personal view on the matter:

We struggle with that on an ongoing basis here. We advise our teachers, you are a teacher all the time, because you can be taken to the College of Teachers for professional misconduct by any parent if you are seen to be out of line, verbally, physically, whatever. Teachers hate that, but that is the way it is. We deal with cases to support that. That is the way we advise. Now my personal opinion on that – I am challenged on that, because teachers are members of society and should have rights to expression as well. (Interview, August 15, 2009)

She felt the particular circumstances also impact on the level of freedom a teacher has. It is different if a teacher is participating in a card game in their basement, as opposed to a teacher in a supermarket with young people. She concluded by expressing her personal struggle with where the line is.
4.2.6.3 Moral Responsibility

Maryanne described the many calls she receives from teachers regarding the level of freedom they have outside of school. One of the most common areas for discussion revolves around teachers in bars. Maryanne feels that a bar setting is not overly problematic:

The bar situation always come up. If a young person is of the age to be in a bar, or is there - that to me is less of an issue, because it is not a professional forum. It is not a place where I see as much of an influence on young people. In a bar, I have less issue with, and I know some parents still say no - it has to do with in the face of young people, and not just what the teacher is doing or saying, but who they are doing and saying it to. (Interview, August 15, 2009)

She goes on to describe the situation at hockey arenas and how parents behave in front of young people. To Maryanne, the issue is about whether there are young people present to witness certain adult behaviour:

I have nieces and nephews involved in hockey, and some of the parents amaze me with their behavior in front of young people. So if you are a teacher or not, for me it is less of an issue if you are a teacher, but you are an adult in a position where you are influencing young people. (Interview, August 15, 2009)

She believes that, if students or young people are present, it does pose restrictions on teacher’s behaviour. For her, this is the line in the sand. One additional factor that she mentions is in regards to the age of the student. She believes parents of younger children are more likely to be upset and complaint about a teacher’s off duty behaviour - the younger the student, the greater the impact.

4.2.6.4 Use of Technology

The use of electronic tools by teachers is a concern for Maryanne. In her role with the teacher union, she has seen an alarming increase of teachers misusing this form of technology. She talks about the issues facing both experienced and beginning teachers. For experienced
teachers, she comments on their lack of understanding of how computers store information and records:

We have more and more professional misconduct cases coming forward that are involving electronic communication. And that is anything from emails, piles of emails. That is from Facebook - from social networking sights, all over the place. Experienced teachers that do not understand how a computer can maintain records, and therefore use it in an unprofessional manner. (Interview, August 15, 2009)

She goes on to describe how beginning teachers use this form of technology as a communication tool with parents and students. Teacher unions inform teachers of the inherit dangers of using this technology but beginning teachers see it as a key communication component:

It is beginning teachers who see it as a key tool that they use, and therefore saves all kinds of time to email parents. You cannot just go up to a young person and say you just cannot do this. (Interview, August 15, 2009)

Maryanne states that the teacher union has broadened their reasoning around the use of the computer for workload issues. They endeavour to have beginning teachers use electronic communication more professionally. However, they are seeing many more cases coming forward.

Maryanne commented on the tension that exists between teacher unions and the faculties of educations in Ontario. Teacher candidates are posting homework and other work related information on the Internet. This practice is counter to teacher federation advice:

We are struggling right now with some of the Faculties [of Education]. Even posting a homework page, we have teachers calling us from their pre-service programs. In their classrooms, they are asking us to do certain things, that are in violation of the advice we would give. So it is an interesting – we are not on the same page, is how I would describe - in terms of what electronic communication is as a professional tool. (Interview, August 15, 2009)

Teacher unions advise teachers to be very cautious about how they use electronic communication with students. Maryanne believes that teacher candidates are encouraged by Faculties of Education to use email and other forms of telecommunication with their students. Teacher
union’s view on this matter speaks volumes about the need for both beginning and experienced
teachers to be mindful of some of the possible dilemmas they may find themselves.

4.2.6.5 Children Aid Society Investigations

One of the most difficult areas for teachers is dealing with Children’s Aid Society (CAS)
cases. According to Maryanne, teacher unions spend a great deal of their time and energy helping
teachers who have been involved in a CAS investigation: “In some of our workshops, we will
work on helping teachers understand how devastating it is. It is not a scare tactic, but they have to
get to that point to understand, there is support (Interview, August 15, 2009).” Maryanne
indicates that many teachers, who are the subject of CAS investigations, are emotionally
traumatized by the events of the inquiry:

We are dealing with teachers who are going through CAS investigations. We are dealing
with teachers who have been called to the College or have been arrested by the police. It
is devastating to a teacher. There are a lot of teachers who never go back to teaching after
going through CAS investigation. Even though they are completely exonerated and
cleared, it has a huge impact. (Interview, August 15, 2009)

Teachers are held to a higher standard by society and in the eyes of the law. It is not surprising
that teachers, whose reputation is marred by these allegations, feel they are unable to continue
work in education. Maryanne explains the approach that teacher unions take when dealing with
teachers who have been accused:

Teachers tend to tell all, and try to clear themselves immediately, and it is not good for
them legally. But the other side, working the emotional side with the teacher, is helping
them to understand again. It is a process. You have not been accused. The system is there
to protect the young people. So, this is required to protect young people. We need a
system for reporting. You have been caught in the net. So therefore we need to help you
move through the net and understand what the system is about. (Interview, August 15,
2009)
Even though teacher unions go to great lengths to explain the process to teachers, Maryanne finds most teachers are devastated by the fact that they have been accused. The impact of just being accused is enough to have teachers go on long-term illness or leave the profession completely:

Some teachers are very wrought by the fact that anyone has made an accusation. I get the first phone call and they are in pieces at that point when they call to tell me. They can't believe this is happening to them. And I cannot imagine what their lives are like, before CAS actually calls them and they go through that. We have teachers that go off on illness almost immediately, because it is so devastating to them. To help them talk through the piece and understand that it is not a judgment call. It is a process. Then again, the impact is huge. I do not think until you have been through it, you can really understand the impact of it. (Interview, August 15, 2009)

**4.2.6.6 Teacher Relationship with Colleagues, Parents, and Students**

Even when a teacher is not the subject of the CAS investigation, it is still a very difficult process to experience. It is a teacher’s responsibility to report to CAS any disclosure made to them by a student. By fulfilling their duty to report, it can have a serious impact on the relation that a teacher has with their students, parents and colleagues. Students will confide in a teacher and ask them to keep it confidential. Teachers should know that they cannot promise to keep the disclosure to themselves. Teachers have a duty to report and by doing so; find themselves subjected to parental displeasure and verbal attacks. Maryanne explains that, “we talk to it completely from a legal standpoint of what do you do if a parent confronts a teacher (Interview, August 15, 2009)?” Some teachers think about the fallout, which may occur as a result reporting a disclosure. The relationship between the teacher and parent has become strained and may, in fact, make for a difficult school year. Maryanne talks about the impact on teachers:

We bring on so much of our personal self to teaching, and again when you do these workshops with these teachers, they can't even believe what happened to them. Because I do work with the devastation and what they go through - long term depression that can sometimes exist from it, is very real. (Interview, August 15, 2009)
4.2.6.7 Foundation for Making Legal Decisions

Maryanne was very clear about how she makes legal decisions. Teachers need to make decisions, which are based on the Education Act, regulations and ministry policy. She comments on the dilemma that teachers face when making decisions, which are in the best interests of students. She suggests that the law is intended to keep the best interests of students at heart but perhaps the law does not go far enough. When asked what she draws upon to make legal decisions she indicated:

The law, legislation. I would also say my colleagues - we can defend the teacher according to the law. Therefore, we have to abide by the law, because the laws are there for a reason, and may appear to be in the best interest of the child. But I am also doing the member protection. It is never going to be in the member’s best interest not to abide by the law because that is professional misconduct (Interview, August 15, 2009).

Maryanne believes that her role is to inform teachers that they must make decisions based on the law.

4.2.6.8 Legal Enablers to the Profession

Four pieces of legislation were mentioned when I asked Maryanne if she felt there were any regulations, which assisted teachers in their role. She mentioned the Safe School’s Act, the Occupational Health and Safety Act, the need for criminal checks, and the New Teacher Induction Program [NTIP]. Although she criticized the implementation of the Safe Schools Act, she firmly believes the Act is helpful to teachers. She deals with cases involving teachers who are harassed by parents and students. “The whole harassment piece is something I deal with in a large way (Interview, August 15, 2009).”

The Occupational Health and Safety Act ensures teachers are entitled to work in a safe environment. This Act as well as Bill 168 empowers teachers to refuse to work in an unsafe work
place. Furthermore, collective agreements can articulate the specific details, which constitute a safe working environment. Maryanne believes:

> The best one is Health and Safety. If it is not a safe work place, then this Act is an enabler for us to remove teachers from that work place. Our collective agreements are set up and the labour laws are set up, I see as being very big pieces, as a contract to can further define the workplace. (Interview, August 15, 2009)

If there is a contravention of the collective agreement surrounding the Safe Schools Act, the grievance procedure will protect teachers. “Our whole grievance process is in place to protect a teacher (Interview, August 15, 2009).”

The third piece of legislation that Maryanne supports is with regards to criminal record checks. Although she strongly feels that criminal record checks are necessary, she also believes they should not get in the way of solid citizens who want to be teachers:

> I do deal with them in several different avenues. Yes, I think they are useful. I think they are necessary. However, the system needs to be well regulated, so that a criminal check is not a barrier to a good teacher, because things happen. I see them as valid checkpoints and signposts to raise cautions and concerns. At the same time, the members' rights around them does have to be safe guarded as well over a period of time. (Interview, August 15, 2009)

Finally, Maryanne discussed the importance of the New Teacher Induction Program [NTIP]. She feels that NTIP provides new teachers with ongoing professional learning in its broadest sense. This policy promotes the development of professional learning communities:

> I would love to see NTIP extended to the first five years. I know there is a cost. We need to keep the ongoing professional learning. This is one of the areas, where you have to keep a large network of professional learning. Not just curriculum, not just assessment learning, but it is the professional and legal issues that deal affect someone's life. (Interview, August 15, 2009)

**4.2.6.9 Legal Barriers to the Profession**

One area of concern that Maryanne expressed during the interview was regarding the role of the Ontario College of Teachers. She feels that the College of Teachers, as a result of its
efforts to fulfill its mandate of protecting the public interest, subjects teachers to undo hardship during professional misconduct investigations:

I struggle with the College of Teachers around the professional misconduct piece and some of the pieces around it. I understand why it is there, but the whole College of Teacher's Act and the professional misconduct piece are problematic. There are an awful lot of teachers getting trapped in pieces that I am not sure they need to get dragged through. (Interview, August 15, 2009)

As a result of the fallout from some of the professional misconduct investigations, Maryanne feels that the Ontario College of Teacher’s Act can act as a barrier to teachers and their career. Furthermore, she feels that beginning teachers are not clear about how the roles of the Ontario College of Teachers and the Ontario Teacher Federation differ. Faculties of educations need to do a better job of informing teacher candidates about the mandate of these two organizations. She feels teacher candidates need to:

Understand who the players are in their professional life, beyond the school Board. What is your College of Teachers? What is your teacher union, and how do they all contribute? I know a lot of teachers confuse the College and the unions. I think more work can be done on that - who the partners are, and the stakeholders in the educational process. (Interview, August 15, 2009)

Another barrier to the teaching profession is the level of implementation of certain policies. It is not necessarily the policy itself but the way in which it is enacted. Maryanne mentioned the Safe Schools Policy and how certain aspects of the legislation are presented. Again, she struggles with the implementation and the procedure around the work of the Children’s Aid Society. “I really struggle with some of the policies and how they are enacted and how they are carried out. I do not think that is a criticism of the educational law piece, but the policy and how it is enacted (Interview, August 15, 2009).”
4.2.6.10 Summary

Maryanne addressed a number of legal issues during her interview and she connected several themes, which impact on a teacher’s professional role. An educator’s freedom of expression both inside the classroom and out, a teacher’s moral standing in society and the impact of the Ontario College of Teachers Act are all interconnected. She mentioned how teachers do not return to the profession after being subjected to an investigation. She spent a great deal of time talking about teachers who are going through CAS investigations as well as teachers who have been called to the College or have been questioned by the police.

These investigations are devastating to a teacher. With teachers, once the accusation is made they lose their reputation and credibility within the school community. There are many teachers who never go back to teaching after going through an investigation, even if they are completely exonerated and cleared of all charges. Although Maryanne talks about some of the teacher union workshops that are offered to assist teachers, there needs to be a more systematic approach to support teachers who may find themselves in a legal investigation.

Maryanne does not think beginning teachers have a full understanding of what professional misconduct is in the classroom. While some of the learning is experiential through the first couple of years of teaching, educators need to be better prepared and more knowledgeable of the parameters of professional misconduct. As a beginning teacher, there needs to be a level of readiness. This level of readiness will continue to develop over the years with experience. However, some teachers may not survive their first legal investigation. According to Maryanne, she sees a huge need to educate teachers on the professional learning piece of educational law, collective agreements, and the all the relevant educational legal components that are there to protect them.
The value of certain regulations and policies were evident. Maryanne reflected on the importance of the New Teacher Induction Program. She would like to see the program extended to five years but also recognizes the financial implications of doing so. Her experience with beginning teachers is well documented. She believes that teachers are at different stages of readiness. Although teachers are very interested in educational law, especially how it impacts upon them and their classroom, both Faculties of Education and educational stakeholders, such as school boards and teacher unions need to take an active role in supporting beginning teachers. Although Maryanne’s personal experience with Faculties of Education was not overly positive and meaningful, she recognizes that Faculties of Education need to play an important role in a teacher’s understanding and impact of educational law. The use of case studies allows teacher candidates to discuss the impact of these real life situations.

Beginning teachers need to understand the role various stakeholders groups in the educational community. The role of teacher unions needs to be clear in their minds and it should not be confused with the mandate of the Ontario College of Teachers. Maryanne believes there is a great deal of confusion in the minds of beginning teachers regarding the Ontario College of Teachers and the teacher unions. Understanding the stakeholders in a teacher’s professional life, beyond school board is essential knowledge for beginning teachers. Although teacher unions do present workshops to teacher candidates at the faculties of education, it is not an ongoing series of presentations. As part of the ongoing strategy to assist new teachers, a new additional qualification course in educational law has been developed.

Many teachers see their profession as a vocation and give much of their personal self to their career. Faculties of education, and the many educational stakeholders who impact on
beginning teachers need to recognize that the need for an ongoing systematic approach to preparing teachers for the legal and ethical demands of working in a challenging profession.
Chapter 5: Implications and Recommendations

5.1 Introduction

Chapter Five is structured around the original research questions as outlined in Chapter One. These research questions guided the study and provided the raw data for analysis. A cross case analysis of each of the salient research questions is included in this chapter. The major findings are identified and strengthen by the literature. As a result of the discussion of the findings, implications for initial teacher education programs and the impact of educational law on beginning teachers are articulated in relation to the responses to each of the question. Finally, a series of suggestions for further research is explored.

5.2 Research Questions

The following questions, which formed the basis for the direction of this study, are answered in this section:

1. How does educational law impact on the professional and personal lives of educators during their teaching profession?
2. What are the legal enablers and barriers to the teaching profession?
3. What role do initial teacher education programs have on one’s understanding of educational law?

A number of themes emerged from the cross analysis of the six cases. The re-occurring themes were:

1. Relationships with Students, Parents, and Colleagues
2. Freedom of Expression
3. Off-Duty Behaviour
4. Use of Technology
5. Duty of Care
6. Making Legal Decisions
The themes and their relationship to educational law and their impact on beginning teachers were very evident in each of the cases. Each of the themes represents a significant area of concern for the participants. No one theme was viewed as more important than another. More accurately, all the themes were viewed as being noteworthy. The chart below provides a graphic overview of the themes, which emerged from the data.

![Figure 1: Themes emerging from the data](image)

5.2.1 How does educational law impact on the professional and personal lives of teachers?

All of the participants articulated that educational law has a profound impact on both their professional and personal lives. The themes were teacher relationships with students, parents, and colleagues; the role of initial teacher education programs and the
law; a teacher’s level of freedom of expression; how they conduct themselves while off-duty; their obligation to student duty of care; the impact of technology; and how teachers make legal decisions.

5.2.1.1 Relationships with Colleagues, Parents, and Students

One of the most contentious areas for the participants was the ongoing relationships they have with their colleagues, parents and students. Both Janette and Richard expressed a great deal of concern when dealing with collegial conflict. Janette was in a very vulnerable position as a teacher candidate when a colleague confronted her about her meetings with students. Janette was torn between defending herself and trying not to present herself as a difficult teacher candidate. As a result of working with students after the music class, Janette found herself being accused by another teacher of inappropriate behaviour with those students. At that moment Janette was too upset and too vulnerable to respond. Crook and Truscott (2007) state that teachers are a self-regulating profession, as described in the Ontario College of Teachers’ Act, where educators may find that they are subjected to unprofessional comments or behaviour from fellow colleagues.

The Teaching Profession Act outlines the process by which teachers can respond to public criticism. According to the Standards of Behaviour, subsection Respect, Civility and Responsible Citizenship, all members of the school community must demonstrate honesty and integrity, treat one another with dignity and respect at all times, and, especially when there is disagreement, seek assistance from a member of the school staff, to resolve conflict peacefully (Ontario Code of Conduct, 2007). The Code of Conduct also states that members must respect all members of the school community, especially persons in positions of authority; and respect the need of others to work in an environment that is conducive to learning and teaching (Code of Conduct, 2007).
Collegial Relationships

Teacher candidates are classified as other staff members and should be treated with the same respect and responsible behaviour as all other members of the school community. The accusing teacher was not being respectful towards Janette. It was disrespectful and unprofessional to address the situation so publicly and the comments were extremely offensive and belittling. Because of the negative implications of the comments, and the accusatory tone used, one could view the comments as slanderous.

As a teacher candidate, Janette was in very difficult situation. She was learning how to be an effective teacher but, even more importantly, she was trying to present herself in a positive light for her colleagues and school administration. The suggestion that there may have been an unprofessional relationship between her and a student leads to gossip among staff members and a tarnished reputation. With the support of her Associate Teacher, Janette described the events to the school administration.

In Richard’s case, there were similar feelings of vulnerability and uncertainty. In an effort to protect a student, he became the target of a colleague’s comments. The content of the student’s project resulted in an emotional response from the other teacher and an escalation of conflict among students, teachers and parents. Student projects were being vandalized, letters were written, and comments were exchanged. At the time, Richard was unsure what to do. He was unclear about the proper course of action and he, like Janette, was concerned about his own reputation. He was concerned about pending legal action and whether the school board would support him in any litigation proceedings. His sense of uncertainty became even more evident when he talked about his indecision to approach the principal about this matter. He did not want
to be perceived as being incompetent, yet he expressed the need to be able to address the challenge.

He wanted to resolve the situation. His interaction with the teacher union is interesting to note. Although he approached the local teacher union representative to discuss the matter and acquire their support, the union indicated that they do not get involved in member-to-member conflicts. The Nova Scotia Teachers’ Union Code of Ethics, for example, states that teachers should not make any comments about another teacher, which can be viewed as defamatory or offensive. In fact, most codes of ethics in Canada prohibit teachers from publicly criticizing other teachers. In Ontario, Maryanne, the teacher union representative, talks about Ontario Teacher Federation workshops that are offered to assist teachers with collegial conflicts. She feels that there needs to be a systematic approach to support teachers who may find themselves in a legal bind. Yet, when Richard approached the local union representative for support, he found himself having to look elsewhere for assistance.

Richard was prepared to take the matter to the Ontario College of Teachers. However, this action demonstrates the lack of understanding of the mandate of the College of Teachers by beginning teachers. When I discussed the role of the College of Teachers with Maryanne, she clearly had strong views. She said that beginning teachers need to understand who the various stakeholders are and the role they play in the educational community. The role of teacher unions needs to be clear in their minds and it should not be confused with the mandate of the Ontario College of Teachers, which is to protect the public interest. Maryanne believes there is a great deal of confusion in the minds of beginning teachers regarding the Ontario College of Teachers and the teacher unions.
In both Richard’s and Janette’s cases, the school and school board administration supported them. In the end, the school board superintendent acknowledged receipt of Richard’s letter and informed him of his support. The school principal supported Janette and addressed the matter with the other teacher.

Although Janette wishes this situation will never happen to another teacher, the probability of a similar situation occurring is very high. However, not only do teachers need to be open to the possibility of this happening to them, they need to recognize the impact this can have on their level of confidence and on their reputation. The teaching profession requires an informed understanding of the nature of collegial conflicts. Educators need to know more than just how to teach (Redfield, 2001). In reality, the teaching profession is a complex and highly demanding career. Teachers are not just educators; they need to feel confident when confronted by colleagues and they need to recognize the importance of protecting their reputation.

Jacquelyn witnessed collegial conflict, which resulted in the isolation of the teacher-librarian. During one of her practicum placements, she witnessed most of the teachers avoiding work with the teacher-librarian. The school was committed to the Partners in Action document where the staff was expected to sign up their class for a period with the librarian. The librarian would teach the students skills, or discuss the school theme that was being emphasized for a particular month. However, many of the teachers avoided partnering with the librarian. Jacquelyn described the situation as regrettable because the students lost out. Tirri and Husu (2001) stated that teachers were impacted by collegial conflicts, and in many cases, students were adversely affected by these conflicts. In this situation, the conflict among staff resulted in students not having the benefit of the collective efforts of the staff. Jacquelyn felt helpless as she witnessed the fallout.
The teacher union participant believes that beginning teachers do not feel very confident when dealing with conflict with colleagues. She said that beginning teachers do not fully understand the legal responsibilities of being a teacher, especially when it comes to teacher conflict. The issue becomes more problematic when administrators, such as Sandra, believe that teacher conflicts are union issues and as such, she chooses not to intervene. Sandra advises teachers to submit their complaints in writing to the other teacher as outline in the Teaching Profession Act, Section 18 1(b).

**Parent Teacher Relationships**

A second area of concern that emerged from the data was the challenge of working with parents. Jacquelyn recalled a mother who was also a special education teacher. Her daughter was a very bright girl but was disorganized. Jacquelyn’s associate teacher felt that she might have Attention Deficient Disorder. When the daughter did not score well on tests, the mother wrote an intimidating note and wanted to talk to the Jacquelyn. Keel and Tymochecko (2004) state that students with special needs have become a flashpoint for parental harassment. In many cases, parents become very frustrated with the perception that schools are not providing appropriate support and services for their children. The line between a parent’s legal rights and parental harassment has blurred.

Many court cases highlight the extent to which parents will exercise their legal rights. In Jacquelyn’s case, she was confident and prepared to talk to the mother about her daughter’s grades. She was able to justify the student’s grade and in this particular situation, the mother accepted the note. Jacquelyn felt the mother was really trying to show she was serious about marks for her daughter and she was using her note as an intimidation factor. Jacquelyn felt the
mother was trying to intimidate her so as to increase the grade, or review her work to increase her mark.

Sandra, as a principal in a school community of demanding parents, witnessed many situations where teachers were subjected to parental harassment. Maryanne referred to parental harassment as a ‘growth industry’. In her role as a teacher union representative she is contacted by beginning teachers who find themselves caught between two battling parents. In some cases, the teacher is being pressured into becoming a character witness for one of the parents.

Melodie found herself in a difficult situation at her school. She commented on the unhappiness or grief that teachers feel when they find themselves at odds with parents because they are trying to respect the legal requirements of their profession. In a particular situation, Melodie had to tell a step-mother that she could no longer communicate with her regarding the children. The lack of a court order in the Ontario Student Record (OSR) prevented Melodie from continuing to develop a positive relationship with the step-parent. The parent in this case was the mother of twin boys and there was a history of custodial issues. When the father remarried, the step-mother cared for the boys and assumed the role of parent. She was very involved in the boys’ school life. After four years, the school noticed that there was no documentation identifying her as a caregiver. Melodie was caught in the middle. Keel and Tymochecko (2004) suggest that many parental harassment cases stem from family law disputes. The school administration directed Melodie to discontinue any formal communication with the step-mother. She was to communicate only with the father.

Richard felt unsure how to deal with parents in certain situations. He recalls a discussion in his law class where the dialogue was very animated and spirited. It was clear from the discussion that Richard felt the relationship that teachers have with their students’ parents is a
complex one. He gave an example of a class discussion during his initial teacher education program regarding a parent coming on a school trip and, after a while, this parent began volunteering in the school and in the classroom. He wondered how best to deal with a parent who was always present and perhaps interfering with the class or becoming too involved in the teacher’s life. In the case of *Fairchels v. West Vancouver School District No. 45, British Columbia S.C.* (1996), a mother was constantly visiting her child’s classroom. She refused to leave the classroom and was arrested and removed by the police. In fact, a teacher has to right to refuse to work under the *Occupational Health and Safety Act*. In Part II of the *Occupational Health and Safety Act, section 128 (1)*, addresses the issue of ‘Refusal to Work’. The section states that “a worker may refuse to work where he/she has reason to believe that a condition exists that constitutes a danger to the employee” (n.p.).

Keel and Tymochenko (2004) discuss the tension surrounding parent’s rights and defining the ‘boundary between advocacy and inappropriate behaviour’. Parental harassment has been an educational issue for many years. However, because there is more public attention paid to this issue, it appears that there are more frequent occurrences of parental interference or parent harassment. Beginning teachers experience the fallout of parental harassment in certain areas such as special education, custody issues, student grading and discipline.

**Student Teacher Relationships**

The relationship that teachers have with their students is a complex one. Each of the participants had strong views about how to interact and deal with students without putting themselves in a difficult situation. However, it was the male teacher in this study who expressed the greatest level of uneasiness. Probably the most troubling issue for Richard is the relationship that teachers develop with their students. As a male teacher working with grade 7 and 8 students,
he became quickly aware of the precautions he needed to put into place in his classroom. He describes the advice he received from his associate teacher during his first practicum teaching block. He recalls walking into his first grade 8 practicum class and his associate teacher giving him clear advice about how to physically set up his classroom and where to place his desk.

False accusations are one of the largest concerns for teachers. In England, this problem is so substantial, the union of female teachers pursued a revision to the regulations that would permit them to sue students or their families for wrongful accusations (Crook & Truscott, 2007). Some Canadian school boards have issued publications to the school communities outlining the serious nature of making false accusations (Crook & Truscott, 2007).

Understandably, Richard was apprehensive about any physical contact with his students. He recognized that it was very natural for some students to express their gratitude by hugging the teacher. Working with intermediate aged students complicated the issue. He avoided physical contact with the students when they wanted to say goodbye at the end of a practicum. He did not want to put himself in a situation where he would be falsely accused. Students naturally wanted to approach him and give him a hug.

Richard also discussed the limitations that educational law has placed on him in terms of transporting his students. As a coach for some of the girls’ teams at his school, he feels very uncomfortable about transporting students to different sporting events, especially if there isn’t another female teacher in the car. If Richard is unable to get another teacher to join him, he feels he is taking a huge risk. The alternative is to deny the students the opportunity to participate in the tournament. The teacher union does not recommend that teacher transport students. Richard finds himself in the middle being pulled at one end by his desire to assist students, while asking himself, how much is he willing to risk.
As female teachers, both Jacquelyn and Melodie expressed concern about maintaining a professional distance with students. Jacquelyn reflects on the need for children to be hugged and affirmed. She feels that teachers should not turn students away. She discussed the situation where a young child is hurt on the playground and they just need someone to give them a hug. Cook and Truscott (2007) discuss the importance of teachers maintaining professional boundaries with their students. Zuker, Hammond & Flynn (2005) reflect on the need for educators to be knowledgeable of relevant law and to practice sound judgments when interacting with young students. Practicing sound judgment requires knowledge of the salient laws and board policies. The concerns of beginning teachers interacting with students and defining acceptable professional boundaries are well founded. The ethical standards of care, respect, trust and integrity found in the Foundations of Professional Practice document from the Ontario College of Teachers (www.oct.ca/standards, 2006) provide further direction and guidance for beginning teachers.

5.2.1.2 Freedom of Expression

As a society, we defend rights and protect them in legislation and in our Charter. These values were expressed by the participants in this study. During my discussion with Janette regarding a teacher’s level of freedom of expression in the classroom, she recalls one of her philosophy classes. She began by describing her situation as a student in a Catholic high school. She recalls how her teacher handled the delicate topic of atheism. Janette believes that teachers should never feel that they cannot express their own opinion. However, she does feel there are limits. Both Janette and Jacquelyn referred to a seminar presentation for the law course she took in her initial teacher education program. The case involved Keesgtra, a secondary school teacher who imposed his own views about the Holocaust, and he only accepted his views of the historical
event. Jacquelyn references the case and comments on the fact that the students were expected to write about the Holocaust in the same voice as the teacher.

Janette referred to one of her own personal experiences while teaching an intermediate language arts and music class. Janette stated that teachers need to express their views but in a safe way. As a result of the events in a music class, a parent complained about the type of music that was being studied. The parental complaint painted a very grey area for Janette. On the one hand, she feels expressing one’s views in class is fine, yet, in the event of a complaint, she is prepared to re-think the situation. Crook and Trusott (2007) remind teachers in elementary and secondary panels that freedom of expression is much more constrained. Teachers are expected to teach the Ministry of Education approved curriculum. The Chamberlain v. Surrey School Board (1996) court case outlines the challenges a teacher faces when introducing resource material that has not been approved.

Jacquelyn also struggled with the issue of freedom of expression in the classroom. She certainly realized it was important to present both sides of a story but, at the same time, recognized that teachers have expressed their preference on a particular issue and downplayed the other point of view. She wondered if this was fair to the students. When we proceeded to discuss particular situations, Jacquelyn was more confident about a teacher expressing her views. She brought up the issue of Canada’s involvement in Afghanistan as a topic of class discussion. If a teacher believes that Canada should not be in Afghanistan right now, they have a right to say so.

However, in the Morin v. Prince Edward Island Regional School Board (1999) court case, a high school teacher showed the documentary about fundamentalist religion in America entitled, Thy Kingdom Come, Thy Will be Done. Parental backlash resulted in the teacher going
on an extended sick leave and the trial judge stating that freedom of expression does not apply to elementary or secondary school teachers. The teacher’s contract was not renewed. Jacquelyn felt that she can express her views provided that teachers reassure students that they are not expected to have the same point of view on the issue. They are free to decide based on the information provided.

Another interesting situation Jacquelyn raised related to whether teachers have the right to discuss collective bargaining issues such as class size in the classroom. Jacquelyn felt uneasy about discussing this topic in class, especially as a beginning teacher. She commented that experienced teachers had more latitude to express their views.

When the two experienced teachers reflected on this issue, both Richard and Melodie felt they needed to be careful about what they in the classroom. As illustrated in the *Morin v. Prince Edward Island Regional School Board (1999)* case, Richard felt it was necessary to be very guarded about expressing his views as educator in the classroom. More to the point, Richard believes he is not in the classroom to express his personal opinions. Furthermore, he feels that the school board expects that he teaches the curriculum and that he does not use the classroom as platform for his views. He also felt that his level of freedom of expression was even more restricted because of his role as an educator within a Catholic school board. He will not express his own personal opinions or convictions regarding socially charged issues. He gave the example of gay marriage as an issue where he is not prepared to express his personal views. Publicly funded Catholic school boards in Ontario expect their teachers to follow the tenets of their Catholic faith. The legal case of *Caldwell v. Stuart (1984)* supports Richard’s view.

Melodie indicated that she does not have total freedom say where she wants in the classroom. She also feels teachers do not have the right to indoctrinate their students. Like
Richard, Melodie, as a teacher in the Catholic system, feels that she needs to be guarded about what she can say in classroom.

Both Sandra and Maryanne believe that there are limits to what a teacher can say and do in the classroom. Maryanne expressed that there needs to be a standard of professional language, professional expression, and building respect with young people. They feel teachers should not bring their own specific opinions into a classroom because they are shaping young minds. So, ethically, they need to provide a wide, broad range of perspectives, and not just their own opinion coming into a situation. As a principal, the level of parental involvement in the school influenced Sandra’s view of a teacher’s latitude with regards to freedom of expression in the classroom. She was quite direct in her views that teachers, while in the classroom, should avoid expressing personal opinions. Similar to Richard’s view, she believes teachers should reflect school board policies and procedures. As an employee of the school board, teachers are expected to speak to the values and philosophy of the school board. Sandra believes this is an interesting debate in light of the current climate within schools with an affluent parent body. When teachers are giving personal opinion, they are on a slippery slope, especially when they are working in a school community of well educated and knowledgeable parents who understand and are aware of community and national societal norms.

Sandra insists that teachers need to encourage the students in their classes to develop a voice. Students need to be exposed to a multiplicity of voices including their own voices. Teachers need to encourage students to be critical thinkers on their own without being subjected to personal views or personal agendas held by some teachers.

When the discussion turned to the level of freedom of expression outside the classroom, the participants in the study had similar viewpoints. Janette believes that teachers must maintain
their professionalism outside the classroom and must remain aware of the fact students or parents may be in position to witness a teacher’s activities outside the classroom. Janette is of the opinion that teachers are in the public eye at all times thing and as such you need to remain professional.

Jacquelyn’s view was very similar. She added it was important for teachers to be aware of their surroundings even in large urban centres. She recalls sitting at table next to her high school teacher. Teachers simply do not know when they are in the presence of their students. Teachers are role models and need to respect that responsibility seriously.

Both Richard and Melodie believe teachers have an unmistakable duty to be professional at all times and the level of freedom of expression for a teacher does not change when they are outside the classroom. Melodie makes the distinction between making comments in a public forum, such as in a restaurant, as opposed to comments in a private setting.

Sandra responded to this question on a more personal level. She holds herself to the same standards when she is outside of the school and she maintains teachers have the same level of responsibility. Teachers work with children and they have to manage what they do and say. Sandra believes that the way teachers express themselves in public should not be any different from when they are in the classroom.

Maryanne also felt the need for teachers to remain professional when they leave the classroom. Yet, teachers also need to be able to talk openly about certain issues. She does feel that teachers need to have some space outside of their professional lives and their schools. As a representative of a teacher union she was very clear about the kind of advice she will give teachers – simply, that they are teachers all the time and act accordingly. The Ontario College of Teachers will act in the best interests of the public and as such will address any conduct that is considered ‘not becoming of the profession’. Personally, she struggled with this area. She also
believes that, because teachers are members of society and they should have the right to expression themselves. She echoes Melodie’s feeling that there is a difference when a teacher is commenting in public and when she is expressing her views during a private conversation in her own home.

5.4.1.3 Off-Duty Behaviour

Both recent graduates had strong feelings about how their personal life would be affected outside of the classroom. Janette recalls participating in a number of pro-life rallies at a time when she really wanted to work for a Catholic school board. Although the school board supported her stance during the protest, she still felt conflicted. Janette believes that teachers, who feel passionate about an issue, need to have the freedom to express their views outside of the classroom. Although she understands why some teachers are prepared to face the consequences of their actions, she is not prepared to take that risk. She will also think about the impact on her actions on her, her family and colleagues.

Jacquelyn was also conflicted about how the profession impacts on her personal life. She accepts that teachers are expected to be role models. However, she recognized the difficulty a teacher faces when confronted with the loss of their personal freedom. She gave the example of teachers who choose to be on social networks, such as Facebook. She believes teachers should be able to go on social networking sites. For her, it is impractical and unrealistic to expect teachers to not use Facebook. The idea that a teacher has no control over what others will do, such as, having someone post a photo of them on Facebook, was very troubling. Simply, she felt it is a difficult way for a teacher to live their lives.

Yet at the same time, she accepted the fact that teachers are role models and with this comes certain expectations. Zuker (1988) reminds educators that their behaviour needs to align
with their responsibilities and a school board has the right to impose off-duty guidelines provided there is a nexus or connection to the teacher’s role in the school. Campbell (1997) states that teachers are expected to act as moral agents and exemplars and it has been suggested that teaching in itself is a moral undertaking.

Richard talked about the importance of a teacher being professional at all times and he acknowledged the difficulty an educator faces when confronted with the loss of their personal freedom. He firmly believes that, as a person in a position of responsibility, it is very important that a teacher exemplifies the characteristics and the qualities that parents and society hope for their own children. Richard accepts the responsibilities that come with being a teacher. On more practical level, he had difficult defining what behaviour was appropriate and what was viewed as being inappropriate. Societal perception of appropriate off-duty behaviour is very difficult to define. What might be deemed appropriate by one segment of society may very well be unacceptable by others.

Richard recalls the issue of a teacher’s professional conducts outside of class as a focus of a course during his initial teacher education program. It is interesting to note that he commented on how some teacher candidates did not view this matter as a significant component of a teacher’s life.

Like Richard, Melodie had mixed feelings. She agreed that teachers are role models. However, at the same time, she felt it is unfair that her personal life was being affected. She reflected on personal issues such as the way she dresses in public and about the way she behaves while socializing with friends. She referred to her age and felt that individuals should have the right to enjoy their youth. What she does during her personal life should be her prerogative. She does not appreciate society dictating what she can and cannot do? However, she commented that
it would not be appropriate if a student saw photos of her on the Internet after having a number of drinks.

Melodie, like the other participants, had difficulty defining where one draws the line between appropriate and inappropriate off-duty behaviour. Ultimately, it seems that as long as the behaviour does not become public, then it is acceptable.

Both Melodie and Richard are committed to teaching in the Catholic school system and they are very comfortable discussing the principles of the Catholic faith and modeling those beliefs outside the classroom. Teaching within the Catholic school system does present some additional challenges for some teachers. Melodie expressed difficulty trying to strike a balance between presenting church beliefs and moving beyond those responses especially when students ask questions, which challenge church doctrine. She has good reason to be concerned.

The Supreme Court of Canada in the case of *Caldwell v Stuart (1984)* supports the view that teachers, especially those within the Catholic school system, are expected to model the tenets of the Catholic faith at all times. The issue in this case focused on a school’s right to discipline a teacher for not following the tenets of the Catholic faith. A Catholic teacher with the Catholic Public Schools of Vancouver was not re-hired due to the fact that she married a divorced man in a civil ceremony contrary to the Catholic Church dogma. Although the teacher felt she was wrongfully dismissed and was protected under Section 8 of the British Columbia Human Rights code, the School Board argued that the teacher was not rehired because she did not meet one of their *bona fide* qualifications of employment - for Catholics to live according to Church doctrine. The Supreme Court of Canada ruled in favour of the school board.

As a principal, Sandra referred to the number of cases described in the Ontario College of Teacher’s publication, *Professionally Speaking*. The publication lists current legal cases that the
College is investigating. She wondered about the appropriateness of a teacher’s behaviour while off-duty. She believes that teachers need to see the importance of acting professional at all time and that she is unaware of any inappropriate behaviour outside of school. However, if a matter is brought to her attention, she is prepared to discuss it with any teacher. Like the others, Sandra believes it is less problematic and she will be less concerned if a teacher’s off-duty behaviour takes place outside the community, or outside the country.

As a union representative, Maryanne receives many calls from teachers regarding the level of freedom they have outside of school. One of the most common areas she discusses with the union membership revolves around teachers frequenting bars. Maryanne feels that a bar setting is not overly problematic because it is not a professional forum. However, while she does acknowledge that some parents may find this inappropriate, a teacher’s activity while in a bar is not in public view of his/her students. She believes that, if students or young people are present, it does pose restrictions on teacher’s behaviour. One other additional factor that she mentions is in regards to the age of the student. She believes parents of younger children are more likely to be upset and complaint about a teacher’s off duty behaviour - the younger the student, the greater the impact.

5.2.2.4 Use of Technology

The participants in the study were concerned about the fallout when students and parents use technology and the Internet to defame educators. Janette feels that she has legal rights if a student or parent decided to publish information about her on the Internet. She is prepared to address the issue with the support of her administration. She describes such publications as detrimental to not only her reputation but that of the school as well. However, she was not clear as to the procedure or the protocols she would have to follow but she would find out. Jacquelyn
also indicated she did not know her legal rights if a school community member such as a parent commented on her as teacher on the Internet. Her response to the situation would depend on what the comment was. Jacquelyn believes that it is inappropriate to publish false statements about someone. Although she is not sure what her legal rights are, she would approach the individual who published the comments.

Both Richard and Melodie recognize that parents and students have been using technology, specifically, the Internet to publish comments about teachers. Many beginning teachers do not recognize the serious damage that such public comments can have on their career and their reputation. Stadler (2007) highlights the importance that teachers need to understand that individuals who feel they have a right to publish comments about them can damage their professional reputation. The Canadian Charter of Rights and Freedom also addresses the limits of protected speech. Richard was not overly concerned about students or parents publishing comments about him on websites, such as, rateyourteacher.com.

Although Melodie was unclear about her legal rights, she believes that if parents think that they are assisting the public by providing information that is perceived to be helpful to the school community, then they have a right to publish the comments. She was concerned, however, if the information is going to impact negatively on her reputation.

Sandra is aware that teachers are the targets of student backlash on the Internet. Students use technology to make hurtful comments about other students and they make damaging statements about a teacher’s reputation. Sharff (2008) references the 2007 Ontario College of Teachers report on cyber-bullying where 84% of teachers who responded to the survey experienced cyber-bullying. The cyber-bullying involved publishing obscene or defamatory photos or comments. The Internet has made it extremely easy for a great deal of information to be
disseminated to a large number of individuals very quickly. Teachers need to be diligent in educating students to work with technology in an ethical manner. In doing so, teachers will be protecting other students and fellow colleagues. Sandra’s concern about teachers using social networks, such as Facebook appears well founded. Material posted by teachers on Facebook may be used by students and parents in a negative light. She feels strongly that teachers need to be very cautious when using social networks.

Maryanne shares Sandra’s concern about the use of electronic tools by teachers. In her role with a teacher union, she has seen an alarming increase of teachers misusing this form of technology. She talks about the issues facing both experienced and beginning teachers. For experienced teachers, she comments on their lack of understanding of how computers store information and records. She has witnessed a growth in professional misconduct cases that are involving electronic communication. They include the use of emails and social networking sights. She is concerned about how beginning teachers use this form of technology as a communication tool with parents and students. The issue at hand is that teacher unions provide teachers with information regarding the dangers of using this technology.

However, beginning teachers see it as a key communication component. The Canadian Teacher’s Federation (CTF) passed a resolution in 2007 regarding the use of technological communication such as email. The resolution urged action on issues arising from the use of electronic communication in ways that harm teachers. The actions included the development of partnerships among teachers, students and parents to examine the consequences of inappropriate use of electronic communication. In light of the number of cases documented by the Ontario College of Teachers, beginning teachers need to understand how to use electronic communication more professionally.
Maryanne’s final observation in this area referenced the tension that she feels exists between teacher unions and the faculties of educations in Ontario. Teacher candidates are posting homework and other work related information on the Internet. This practice is counter to teacher union advice. Ontario Faculties of Education are encouraging a teacher candidate in their initial teacher education programs to use technology in a way that may be contrary to the advice teacher unions are providing. Representatives from teacher unions advise teachers to be very cautious about how they use electronic communication with students. The number of cases between teachers and students or parents which have gone to the Ontario College of Teachers highlights the need for both beginning and experienced teachers to have a more in-depth understanding of how and when to use electronic communication.

**5.2.1.5 Duty of Care**

All six participants recognized the importance and the legal responsibility to take their supervision and their duty of care obligations seriously. The issue of the level of supervision was raised by a number of the participants including Jacquelyn who questioned the level of active supervision a teacher is required to do. She wondered if having a conversation with colleague during yard duty increased her liability should a student become injured. For Jacquelyn, yard duty is a good time to collaborate with other teachers. In her view, carrying on a conversation with a colleague does not mean that a teacher cannot actively supervise at the same time. She did comment that talking about school related topics is more justified than discussing personal matters.

According to Jacquelyn, the nature of the discussion impacts on the legal correctness of a teacher’s actions while on yard supervision. Furthermore, she believes it is very difficult to prove a teacher was negligent in their supervision duties. In reality, whether a teacher is carrying on a
conversation or not, they cannot necessarily see everything that is happening in the schoolyard. Having an appropriate number of supervisors on the yard may be the bigger issue.

The issue of duty of care raised a number of concerns. On one level, the participants understood their legal responsibility to report any disclosure of child abuse. What becomes a serious issue was the parental fallout teachers experienced as a result of filing a disclosure report to the one of the Children’s Aid Societies in Ontario.

Although Richard felt very confident about his legal duty to report he encountered a number of legal issues while reporting suspected child abuse. According to Maryanne, one of the most difficult areas for teachers is dealing with Children’s Aid Society (CAS) cases. More time and energy is required to assist teachers who have been involved in a CAS investigation. Sandra assisted a number of beginning teachers who needed to contact protective child services agencies in Ontario. She reminds teachers that the Child and Family Services Act provides protection for students and that teachers have the legal responsibility to contact Children’s Aid Society of Ontario when a child discloses an abuse. However, beginning teachers have difficulty dealing with parents who are upset by the teacher’s decision to contact CAS. Keel and Tymochenko (2004) highlight the fact that many parental harassment cases have their origin in family law disputes. Teachers need to understand that there is support for them in these difficult situations. Maryanne commented on how devastating an ordeal this can be.

Maryanne goes on to indicate that many teachers, who are the subject of CAS investigations, are emotionally traumatized by the events of the inquiry and never return to teaching. Even if they are completely exonerated and cleared, some still leave the profession. The Ontario College of Teachers Act (1996) outlines the mandate that, the Ontario College of Teachers is expected to protect the public interest and in doing so, many teachers chose to leave
their teaching career. Teachers are held to a higher standard by society and in the eyes of the law. So, it is not surprising that teachers, whose reputation is marred by these allegations, feel they are unable to continue work in education. Teachers need to be educated and counseled in this area. They need to understand that they have not been accused and that legal support is available to guide them through the process. Even though teacher unions go to great lengths to explain the process to teachers, Maryanne finds most teachers are devastated by the fact that they have been accused. The impact of just being accused is enough to have teachers go on long-term leave of absence or resign from the profession.

Another issue that arose was a teacher’s duty to protect students from individuals who do not have legal custody or a legal right to access. In Sandra’s experience, many children live in single parent homes and she indicates that it is quite common for one of the parents to have sole custody. It is also a very affluent community and parents will come to school demanding that the teacher release the student to them. Sandra has had personal experience where the non-custodial parent comes into the school building and tries to ask for the child. Pending the terms of the court order, Sandra states that teachers need to be aware that the school cannot release the child to the non-custodial parent. To add to the complexity of the custody and access issues, Sandra noted that shared custody arrangements, where the two parents alternate the days and times of access, make it very difficult for teachers. Keel and Tymochenko (2004) illustrate the complexity of the issue. In some cases, one parent retains the legal right to access the child and to make decisions regarding the child’s program at school, while the non-custodial parent retains the right to receive educational information about the child.

Situations occur in schools where the non-custodial parent is demanding access to their child’s educational information. Parents who do not have their legal rights documented in a court
order have confronted teachers. Sandra confirmed that teachers are not required to provide
information unless it is in a court order. To complicate the matter further, some parents have
referenced section 2(1) of the Ontario Regulation 474/00, which states that a parent or guardian
‘is permitted to be on school premises on any day and at any time’. Often, family law disputes
can escalate into a case of parental harassment. Although issues of restriction or exclusion do
continue to apply, teachers sometimes struggle just to know where the legal documentation is
stored. Jacquelyn felt that the teacher has the responsibility to be knowledgeable about custodial
and non-custodial parents. However, she was not sure where this information was stored.

Melodie has a very good understanding of her responsibilities with regards to custody and
child access cases and she was very clear as to what documentation needed to be in place in the
Ontario Student Record (OSR) file before she would release a child to the parent. However,
Melodie found herself struggling with her legal requirements and her desire to do what was best
for a child and the family. She described the grief that she experienced when she had to tell a
step-mother that she could no longer communicate with her regarding the children. The lack of a
court order in the OSR prevented Melodie from doing so and created a strain in her relationship
with the step-mother.

5.2.1.6 Making Legal Decisions

Three of the six participants relied on their values, principles and common sense to make
legal decisions. Richard said that his uses his common sense as the basis for making decisions
that are of a legal nature. The danger here is the possible disconnect between common sense and
the degree of knowledge to which professionalism is embedded in the decision. It brings to mind
Voltaire’s observation that perhaps common sense is not all that common. Richard also believes
that it is important to take time to make a decision and not to be forced into making a quick
determination. I found it interesting that he did not reference any legal regulations, the Education Act or board policy documents. In his example, which dealt with bullying, he does not reference the Safe Schools Policy. A parent contacted him about a student with a bullying issue that took place in the school. He was not sure whether he should bring the matter to the principal or deal with it himself. In the end, he relied on his own common sense and chose to not react immediately.

In making legal decisions, Melodie felt most often that she relied on her own set of values and morals. However, when it came to dealing with more complex legal issues, she referenced using other background information, but her morals and values were at the forefront. Crook and Truscott (2007) believe that teachers rely on their sense of values of right and wrong and their ‘personal ethical sensibility’ to guide their behaviour and decision making. Melodie gave the example where she witnessed a child mistreating another student while on a school excursion. It was her sense of fairness and justice that directed her actions.

It is interesting to note that Melodie commented that it was her law classes that gave her reason to pause and reflect on some of the legal dilemmas that educator face. During her first three years in the teaching profession, she reflected on some of the legal dilemmas that teachers face on a regular basis. She believes that teachers cannot take a passive role and that they need to examine each situation and respond in an ethical, professional and caring manner. She believes that knowledge of educational law along with her personal ethical foundation can protect teachers and it will enable them to make decisions, which are in the best interest of children. Like Janette, Jacquelyn feels a teacher needs to think about is right and wrong but also to draw upon what the law states.
The remaining participants moved away from the ethical stance and relied on their knowledge of educational law to guide their decisions. Janette commented that she would use her knowledge of her legal rights and her knowledge of the appropriate policies and school board protocols. According to Janette, teachers need to be knowledgeable about the appropriate steps outlined in school board protocol documents. Furthermore, both Janette and Jacquelyn felt it was important to conference with other colleagues. Jacquelyn agrees with Richard that sometimes the situation is such that a teacher may not have the time to consult before acting. In those situations, the teacher needs to take the time to decide what the best course of action is.

Both the principal and the teacher union representative expect that teachers will make decisions based on their understanding of the law. As a principal, Sandra expects teacher to be knowledgeable of specific regulations and policies, which impact on the school, students, and teachers. She believes teachers need to be aware of legal liability issues, especially when taking students on field trips. Beginning teachers need to know the excursion protocol and school policy.

Teachers find themselves in so many different situations and each one has a legal implication. Every day is different and there are so many different scenarios that will affect teachers. Sandra believes teachers need to be able have a list of resources to draw upon including the school administration and the legal firms that Ontario school boards have in available when dealing with legal issues. There are so many more issues today to deal with as a teacher and an educator in schools. There are many different scenarios that could fall into place for teachers, and very day is different. Redfield (2001) reminds educators that they need to remain current and to be familiar with the ever-changing landscape of educational law.
Sandra comments on the value in approaching the teacher union as an additional legal resource. Teacher unions provide a variety of support resources for beginning teachers. She commented on some of the resource material, which is available from the teacher unions. She states that the Elementary Teacher Federation of Ontario publishes a magazine entitled *Voice*, and she encourages teachers to avail themselves of ongoing professional development.

Maryanne was very clear that teachers need to make decisions, which are based on the Education Act, regulations and ministry policy. However, she did comment on the ethical dilemma that teachers face when making decisions. She suggests that the law is intended to keep the best interests of students at heart but perhaps the law does not go far enough. Like Sandra, Maryanne believes that teacher unions can play a significant role in informing teachers that they must make decisions based on the law.

5.2.2 Legal Enablers and Barriers to the Teaching Profession

I have organized the participants’ responses in two main categories – legal enablers and legal barriers. I will begin by analyzing the insights regarding legal enablers to the teaching profession.

**Legal Enablers**

Three of the four teachers were able to identify specific legal documents, such as the safe school’s act, child and family services act, and the occupational health and safety act, which supported their role as an educator. Although Janette was unable to identify any legal enablers during the interview, she reflected on the legal impact her initial teacher education program had on her. She commented on the various topics, which were discussed during the law course, specifically, the Keegstra case, which focused on a teacher’s legal responsibility to present curriculum in an objective and unbiased manner.
Jacquelyn believes that the teacher performance appraisal legislation, although unsettling, provides a standard for teacher quality in the classroom. It is important that teachers are evaluated. In her view, the teacher performance appraisal legislation establishes teaching practice standards and, in doing so, it instills confidence in the teacher and in the minds of the public.

The participants felt that teacher criminal record checks were helpful in instilling trust with the general public. Jacquelyn viewed them as required, but not necessarily totally helpful. Melodie was more supportive of the legislation. When I asked Melodie whether she felt the law provided her with the support to be more effective in her profession, she felt that criminal record checks are necessary and they provide the public with a sense of comfort that their child’s teacher has been vetted in this manner. The public is entrusting their children to teachers and Melodie feels it is helpful and necessary and a requirement for the public to know that teachers have cleared the criminal record check. Maryanne also supports criminal record checks. Although she strongly feels that criminal record checks are necessary, she also believes they should not get in the way of good citizens who want to be teachers. She feels that the educational system needs to be well regulated, so that a criminal record check is not a barrier to a potentially good teacher.

Sandra also feels the introduction of mandatory criminal record checks for staff is positive step in protecting students. She feels that criminal record checks are necessary and it creates a climate of security and assurance within the school community. She feels it is really important to know that employees cannot have criminal records against them if they wish to work with children.

Richard focused his comments on the Family and Child Services Act, which he feels empowers teachers with the responsibility to report any suspected child abuse case. He feels that this law enables a teacher to help protect a student from harm. Justice Paul Rouleau (2006)
reminds us that in light of the ever-changing rules and regulations, liabilities and interests, teachers can become easily overwhelmed by this legislation but teachers need to acknowledge that there is a delicate balance between adhering to all these regulations while always maintaining as a priority what is best for children. Sandra also welcomed the protection laws for students. Sandra commented that teachers have the right and responsibility to contact Children’s Aid Society of Ontario when a child discloses an abuse.

Sandra expressed her support for the new safe schools policy. Teachers are now in a better position to support students. Previously, schools had very little choice when a student committed an infraction against the old safe schools policy, which was based on a zero-tolerance philosophy. Shariff (2008) reminds teachers that safe school policies need to go beyond the physical parameters of the classroom. The new safe schools legislation supports the school’s efforts in implementing progressive and reflective discipline. Students are not automatically suspended and meaningful programs are now in place to support the students. Sandra believes that having a safe schools policy contributes the overall safe climate within a school.

Maryanne identified four pieces of legislation, which enable teachers to fulfill their professional responsibilities. Like the other participants, she supports the Safe Schools Act and the need for criminal record checks. Although she has concerns about the implementation of the Safe Schools Act, she firmly believes the Act is helpful to teachers.

She also commented on the value of the Occupational Health and Safety Act, the New Teacher Induction Program (NTIP) and Collective Agreements. The Health and Safety Act ensures teachers are entitled to work in a safe environment. This Act empowers teachers to refuse to work in an unsafe work place. Furthermore, collective agreements help to articulate the specific details, which constitute a safe working environment. Collective agreements and safety
labour laws help to further define working conditions and the workplace. Any contravention of the collective agreement surrounding the Safe Schools Act, the grievance procedure is in place to protect teachers.

Finally, Maryanne discussed the importance of the New Teacher Induction Program (NTIP). She feels that NTIP provides new teachers with ongoing professional learning in its broadest sense. This policy promotes the development of professional learning communities. She would like to see NTIP extended to the first five years. Extending the NTIP will enhance the ongoing professional learning of teachers in all areas including curriculum, assessment learning, and the professional and legal aspects of the educational environment.

**Legal Barriers**

With regards to the legal barriers to the profession, the participants identified a number of legislative concerns. Although the safe schools policy was identified by some as a legal enabler, Janette recalled how the protocol of this policy got in the way of serving the best interests of a student. She described a school situation, which took place during her third practice teaching placement where a student was suspended because they threatened another student with scissors. The protocol dictates that, if a weapon is used, they had called the police immediately. This student, who was identified with special needs, was removed from the class. Mitigating circumstances surrounding the situation were not addressed and the homeroom teacher felt that since she was in the room at the time, she could have diffused the situation. The teacher who was present in the room at the time was following the correct protocol. Janette’s Associate Teacher knew that the student had a very difficult morning and, if only she was able to talk to the student she would have been able to diffuse the situation. However, board policy was very clear about possession of a weapon.
A number of the participants reflected on the fact that the law restricts a teacher’s wish to respond to a student’s need for affection. Jacquelyn recalls the example of hugging a student. She worries about what some of the teachers might be thinking. Even it is a legitimate hug, she believes some teachers are worried about their actions. She recognizes that this issue is especially troublesome for male teachers. Richard was very clear on this matter. He felt it is important to support and to affirm a student’s accomplishment but not to the extent of affirming a student’s success physically. He believes that the law does not allow him the latitude to give a student a pat on the back. According to Richard, teachers, especially male teachers, need to be very cautious.

Melodie also commented on a teacher’s reluctance to respond to student affection. She accepts hugs from students but is very careful about how she receives them. She is aware of some male teachers who also accept hugs from students but she does wonder about what other teachers think when they see this happening. She believes that primary children will hug their teacher regardless whether they are male or female.

Another area that Melodie mentioned where the law is a barrier is in relation to certain aspects of the physical education programs. In the past, gymnastics was a large component of the physical education program but, because of law suits and fear of student injury, fewer schools include gymnastics as a component in their physical education programs. One other area that both Melodie and Richard mentioned is in regards to teachers transporting students to athletic events. Teachers have become very reluctant to drive students to school tournaments.

Sandra highlighted the legal difficulty that schools and educators face when confronted by an angry parent. She strongly believes that the laws surrounding parents who are harassing teachers need to be amended. Educators need to have more streamlined and timely protocol for dealing with parents who do not respect that schools are private property. Sandra believes there
are many legal barriers to overcome before a parent is given a trespassing order notice. Her comments highlight the ongoing challenges that schools face when dealing with parents. It is not so much the actual legislation that concerns Sandra but rather the process that one must follow before serving a trespass notice to a parent.

Maryanne feels that the Ontario College of Teachers Act, as a result of its efforts to fulfill its mandate of protecting the public interest, subjects teachers to undue hardship during professional misconduct investigations. She understands the reason for the OCT Act but struggles with the way the College of Teachers address the issue of professional misconduct. As a result of the fallout from some of the professional misconduct investigations, Maryanne feels that the Ontario College of Teacher’s Act can be viewed as a barrier to teachers and their career.

5.2.3 What role do initial teacher education programs have on one’s understanding of educational law?

Much has been written about the need for specific components within initial teacher education programs. The literature review highlights the importance of initial teacher education, (Broad & Evans, 2008); (Darling-Hammond, 2006); and (Abourezk & Patterson, 2003). The need for an educational law component within teacher education programs became very evident in the data collected. Below, figure 2 identifies the main issues identified in the study.
Figure 2: Themes on Initial Teacher Education and the Law

The four teachers, namely, the two recent graduates and those entering their second and third year of teaching, expressed the need to dedicate a significant amount of time to address how educational law impacts on beginning teachers. Janette reflected on the legal impact her initial teacher education program had on her. She commented on the methodology and the various topics, which were discussed during the law course. Janette believes that the only way to better prepare teacher candidates for legal situations such as colleague conflicts and issues of freedom of expression is to provide teacher candidates with additional scenarios. She suggested that to avoid discussing these situations will be a disservice to the teacher candidates.

Like Janette, Jacquelyn commented on the significance of a legal component within her initial teacher education program. Jacquelyn reflected on the importance, that beginning teachers, need be knowledgeable about educational law. She feels the teacher candidates in initial teacher
education programs do not get enough exposure to legal issues. One of the main issues, which remained clearly in Jacquelyn’s mind, was the importance of addressing professional conduct. She recalled that, in order to file a complaint about another teacher, she had to provide the teacher with a written copy of the letter. Teachers need to be informed that, if the complaint is related to a sexual assault, then the teacher does not have to provide a written copy to the other teacher.

Zuker (2001) comments on the fact that changes in education law reflect the evolving norms of a global society. He believes that the never ending list of ‘new statutes, regulations, case law, and ministry memoranda’ require educators to be watchful of how legal documents influence the educational environment. These insights need to be addressed in initial teacher education programs.

Both Melodie and Richard commented on the need for teacher education programs to address a number of areas in more depth, such as student assessment, long range planning, literacy, and educational law. Melodie reflected on the need for teacher education program to be extended beyond one year. She feels that this way more time can be dedicated to educational issues. According to Melodie, one year of teacher education does not adequately prepare someone to become a teacher. Darling-Hammond (2006) indicates that teacher candidates of extended programs are more confident about their teaching abilities. Administrators and colleagues feel they are better prepared, and they view these graduates as being as effective as more experienced teachers, and are much more likely to remain in teaching.

Richard also agrees that teacher education programs need to be extended beyond one year. He feels lengthening the programs will allow teacher candidates to experience an extended practice teaching placement. By doing so, teacher candidates will be better prepared to address a more realistic set of educational and legal challenges. According to Richard, teachers need to
understand that they have a duty to be professional at all times. Teacher education programs need to instill the understanding that teachers are always on call. One of the factors that shaped Richard’s views in this area was his initial teacher education program. Richard referred to courses he took during his initial teacher education program where case studies were used to discuss real life situations.

The use of case studies as a methodology provided an opportunity for the candidates to challenge their current thinking in a real life context. The Ontario College of Teachers supports the case study method. When used correctly, a case will reflect a real life dilemma, which is composed of a genuine quandary or conflict related to the educational environment. Richard spoke highly about the use of the legal case studies because the discussion surrounding these case studies was extremely helpful in dealing with real life scenarios.

Reflecting on his initial teacher education preparation, Richard felt it was critical that teacher candidates be provided with the opportunity to discuss case studies of real life school situations. In this way, beginning teachers will be better prepared to deal with legal issues. He believes that many beginning teachers will encounter similar situations throughout their educational career. He specifically references the need to discuss case studies about a teacher’s duty to report, yard supervision, how best to protect oneself, and ensure a teacher is fulfilling their legal responsibilities.

Sandra, who completed a one-year teacher education program, also agrees that educational law needs to be part of the training for teacher candidates. As a principal, she believes that faculties of education have an obligation to address legal issues and teacher liabilities. Sandra commented that, before teachers enter the profession, they need to know the legal ramifications of their decisions and actions. She believes that legal documents such as
school board policies, regulations, and case law govern what teachers can do or say. Similar to Richard’s comments, Sandra expressed the need for faculties of education to discuss legal issues more extensively.

Maryanne also completed a one-year teacher education program. Through her Ontario teacher union lens, she feels the educational law component of her initial teacher education program, which in her own personal experience was very limited and focused on teacher liability, left her wanting for more. Although it was not the most enriching of experiences for her, she confirmed that educational law was essential. In Maryanne’s case, time was not given to fully explain how issues related to educational law impacted on what she needed to know as a beginning teacher. She believes Ontario Faculties of Education need to dedicate more time and effort to prepare teacher candidates.

Maryanne works extensively with teachers in their first five years. She believes that teachers are very interested in educational law, especially how it impacts upon them and their classroom, but in her view, it is a readiness issue. Once teachers have been in the classroom for a couple of years and they are no longer trying to just survive each day, they are more open to talk about educational law. She also believes that beginning teachers do not understand what professional misconduct means in the classroom. Her view is that professionalism is learned experientially.

However, the other interviewees believe that teachers need to be prepared to deal with issues of professionalism before they enter the classroom. Zuker (1998) asserts that it is less costly for teachers to avoid litigation by being better prepared then to find themselves in the middle of a legal situation. Sandra, in particular, expressed very strong views about educating teachers about their legal requirements before they enter the profession. Zuker (2001) also writes
about the ever-changing landscape of educational law. Teachers need to understand that, although they will face changes in school policies, ministry regulations, and, provincial legislation, they cannot lose sight of the importance of making professional decisions which are motivated by what is in the best interests of students. I believe that Maryanne’s own initial teacher education program’s cursory overview of educational law may have contributed to her current view of teacher candidates’ inability to grasp the subtleties of teacher professionalism.

However, Maryanne does believe that it is essential to educate teachers on the professional learning piece of educational law. She refers specifically to the need to understand collective agreements, and educational legal documents that protect teachers. She believes that faculties of education in partnership with teacher unions and with Ministry of Education programs such as the New Teacher Induction Program (NTIP) will be better able to prepare beginning teachers. She also commented that the use of effective case studies in initial teacher education programs will assist beginning teachers better understand the challenges facing educators.

According to Maryanne, initial teacher education programs need to dedicate time to discuss the legal aspects of protecting students, and how best to protect themselves especially when complaints are made to the Children’s Aid Society. Teachers need to know this is a possibility and how to conduct themselves in these investigations. Berryman (1998) reminds teachers that they are to maintain the standard of care of a careful and prudent parent. Van Nuland (2001) outlines that the doctrine of “in loco parentis” instructs teachers to act in place of the parent for the purpose of protecting and educating the child.

In Maryanne’s experience, teachers who have been named in a CAS case, in an effort to clear themselves immediately, tend to provide too much detail and, in doing so, may not be
acting in their best interest. Initial teacher education programs need to assist teachers in recognizing the importance of availing themselves of profession support and advice.

The statute of limitation clearly states that there is no limitation period for sexual assault cases when the perpetrator was in a position of trust or authority at the time of the assault. (Limitation Act S. 16 (1) (h), (2002)) Initial teacher education programs, by using case studies, have an opportunity to discuss the emotional implications of being part of this investigative process. Teachers need to understand it is a process and they have not been accused. The process is there to protect the young people and beginning teachers need to understand there needs to be a system for reporting child abuse. A teacher’s understanding of the process will help them navigate through this legal and emotional experience.

Finally, Maryanne believes there is a place in teacher education programs to provide resources to support beginning teachers, in terms of their professional learning. Beginning teachers need to know which organizations to approach when a legal issue arises. She commented that teacher unions struggle with how effective their one-day workshops are on educational law. Beginning teachers need to have a working knowledge of educational law and they also need to know who is there to protect them if, for example, they feel unsafe in the classroom or if they were assaulted or struck by a student. Beginning teachers confuse the role of the different stakeholder groups in education. Maryanne believes that beginning teachers confuse the role of the Ontario College of Teachers with the role of teacher unions. The role of teacher unions needs to be included in initial teacher education programs. She sees value in teacher unions and faculties of education working together to assist beginning teachers.
5.3 Major Findings:

A summary of the major findings is listed below as they relate to the themes, which emerged from the study.

Relationships with Students, Parents, and Colleagues

1. The ongoing relationships that teachers have with their colleagues, parents and students are one of the most contentious areas for beginning teachers to manage.

2. Teacher candidates, while on practicum, should be treated with the same respect and responsible behaviour as all other members of the school community.

3. Teacher candidates have feelings of vulnerability and uncertainty during their practicum when dealing with collegial conflicts and parent confrontations.

4. The teaching profession requires an informed understanding of the nature of collegial conflicts.

5. Beginning teachers need to recognize the importance of protecting their professional and personal reputation.

6. Teachers experience the fallout of parental harassment especially in areas such as special education, custody issues, student grading and discipline. There is an increase in parental interference or parent harassment and there is a tension surrounding parent’s rights and defining the line between advocacy and inappropriate behaviour.

7. Teachers need to understand the importance of maintaining professional boundaries with their students. Beginning teachers struggle balancing a student’s need for physical affection and defining acceptable professional boundaries. All teachers, and especially male teachers to a much larger extent need to practice sound judgments when interacting with young students.
Figure 3: Relationships with Students, Parents and Colleagues

**Freedom of Expression**

1. As a society we defend rights and protect them in legislation and in our Charter. However, there are limits to what a teacher can say and do in their classroom. There needs to be a standard of professional language, professional expression, and building respect with young people.

2. Teachers need to provide a wide, broad range of perspectives during class discussions.

3. Teachers need to encourage the students in their classes to develop a voice and students need to be exposed to a multiplicity of voices including their own.

4. Teachers have a duty to be professional at all times and the level of freedom of expression for a teacher does not change when they are outside the classroom.

5. As members of society, teachers should have the right to express themselves outside of the classroom. However, the consequences of a teacher’s comments are quite
different when they are made in public as opposed to expressing those views in a private setting.

Figure 4: Freedom of Expression

Off-Duty Behaviour

1. The general public and the law hold teachers to a higher level and perceive them as being a moral compass of society.

2. Societal perception of appropriate off-duty behaviour is very difficult to define. What might be deemed appropriate by one segment of society may very well be unacceptable by others. Defining where a teacher has crossed the line from appropriate to inappropriate off-duty behaviour encompasses a large grey area.

3. Beginning teachers are expected to be professional at all times and they are expected to exemplify the characteristics and the qualities, that parents and society hope for
their own children. Educators acknowledge the difficulty when confronted with the loss of their personal freedom.

4. Teachers who choose to work in the Catholic school system face additional challenges. Some teachers expressed difficulty trying to strike a balance between presenting church beliefs and responding honestly to student questions, which challenge church doctrine.

Use of Technology

1. Parents and students have been using technology, specifically, the Internet to publish comments about teachers. Many beginning teachers do not recognize the serious damage that such public comments can have on their career and their reputation.

2. According to the 2007 Ontario College of Teachers report on cyber-bullying 84% of teachers who responded to the survey experienced cyber-bullying. The cyber-bullying
involved publishing obscene or defamatory photos or negative comments about teachers. Educators need to reflect on the implications of teachers being the target of wide-spread cyber-bullying.

3. Some teacher graduates and beginning teachers are members of social networks, such as Facebook. Teachers need to be very cautious when using social networks, as material posted by teachers on Facebook may be published by students and parents in a negative light.

4. In light of the number of cases documented by the Ontario College of Teachers, beginning teachers need to understand how to use electronic communication (i.e., email) more professionally.

5. There has been a growth in professional misconduct cases that involve electronic communication. They include the use of emails and social networking sites. Beginning teachers use this form of technology as a communication tool with parents and students. Teacher unions provide teachers with information regarding the dangers of using this technology. However, beginning teachers see it as a key communication component.

6. Ontario Faculties of Education are encouraging teacher candidates in their initial teacher education programs to use technology that may be contrary to the advice teacher unions are providing.
1. Student supervision and duty of care obligations are important and legal responsibilities for teachers.

2. Defining appropriate levels of supervision is elusive.

3. All the participants understand their legal responsibility to report any disclosure of child abuse. Teachers experience negative fallout as a result of filing a disclosure report to the one of the Children’s Aid Societies in Ontario.

4. One of the most difficult areas for teachers is dealing with Children’s Aid Society cases. More time and energy is required to assist and prepare teachers who have been named in a CAS investigation.
Making Legal Decisions

1. While some of the participants relied on their knowledge of educational law, appropriate policies and school board protocols to guide their decisions, others called upon their values, moral principles and common sense to make legal judgments.

Legal Enablers and Barriers

1. Legislation addressing teacher performance appraisal, criminal record checks, safe schools, child and family services act, the occupational health and safety act and the new teacher induction program were viewed as legal enablers.

2. The implementation of the safe schools policy was also viewed as a legal barrier. Liability and lawsuits related to transporting students and to certain components (i.e., gymnastics) of the physical education program were viewed as legal barriers.

3. The absence of legislation empowering educators to expedite the removal of harassing parents off school property was perceived to be a legal barrier.
4. Sections of the Ontario College of Teachers Act, which address professional misconduct, discourages teachers from responding to student’s need for physical affection.

**Initial Teacher Education Programs and the Law**

1. Beginning teachers need be knowledgeable about educational law and, as such, a substantive educational law component should be mandatory within initial teacher education programs.

2. The use of case studies is an effective methodology to better prepare teacher candidates for actual legal situations such as professionalism, colleague conflicts and issues of freedom of expression.

3. Educational law reflects the transient norms of society. New or revised statutes, regulations, case law, and ministry memoranda require educators to be watchful of how they influence the educational environment. These insights need to be included in initial teacher education programs.

4. Initial teacher education programs need to be extended beyond one year. Extending the length of these programs will allow teacher candidates to experience an extended practice teaching placement and be better prepared to address a more realistic set of educational and legal challenges.

5. Beginning teachers do not have a clear understanding of the roles of the different educational stakeholder organizations. They confuse the mandate of the Ontario College of Teachers and the role of teacher unions. Initial teacher education programs need to provide opportunities to minimize any confusion about these organizations.
6. Initial teacher education programs need to dedicate time to discuss the legal aspects of protecting students, and how best to protect themselves especially when complaints are made to the Children’s Aid Society. Beginning teachers need to know how to conduct themselves in these investigations.

7. Teacher candidates and beginning teachers are at different level of readiness. Faculties of education and other educational stakeholder groups such as teacher unions and school boards need to focus their ongoing professional development initiatives in order to respond to the different career stages of teacher development.

8. Many new teachers begin their career in long-term occasional roles or as a supply teacher. Although the legal expectations of being in one of these temporary positions, is no different than those of a contracted permanent teacher, the temporary positions carry additional challenges. These challenges need to be addressed as part of the initial teacher education program.

5.4 Implications for Further Study - Need for Knowledge of Education Law

After reviewing the findings in this study, a number of areas surface that will benefit from future investigative research.

Although research, including this study, has been conducted into collegial conflicts, parental confrontations and the use of cyber-bullying to harass teachers, a gap still remains in the research. Further analysis into the extent to which teachers are prepared to deal with these issues will provide them with the data, knowledge, and skills to address these concerns in a confident, professional, and effective fashion.

Societal norms continue to evolve over time. Furthermore, community level norms can be significantly different than national social norms, which add to the complexity of this issue.
Schools are caught in the ever-changing ebb of legislative renewal that reflect societal expectations. Over the last ten years, the rapid change in legislative documents is unprecedented. There needs to be an ongoing exploratory study, which examines the impact of changing societal expectations and legislative amendments on the teaching profession.

Educators are faced with the ongoing mission of preparing future teachers for the challenges of their profession. There needs to be further reflective studies to determine the optimum stages in a teacher’s career when certain legal requirements are presented and analyzed. Further studies need to examine the impact of teaching experience on an educator’s level of confidence when dealing with legal matters. The various educational stakeholder organizations need to avail themselves of future research to determine their role and effectiveness in establishing the appropriate levels of readiness of teacher candidates and beginning teachers.

Many studies have examined the need for teachers to maintain a professional distance with their students. However, as noted in this study, many beginning teachers believe that students, whose physical invitation is dismissed out of a teacher’s sense of uneasiness, may have a negative impact. Teachers are expected to act in the best interests of students. Determining best practices will help inform teachers who feel uncomfortable when placed in this situation.

5.5 **Recommendations and Suggestions for Initial Teacher Education Programs**

Based on the findings of this study, the following suggestions are provided to faculties of education, teacher union organizations, and school boards to better prepare teacher candidates with the legal and ethical challenges of the teaching profession. The list of recommendations for initial teacher education programs is not meant as a criticism of existing programs but rather as an invitation to dialogue about how best to enhance current, effective, and meaningful programs.
5.5.1 The Role of Teacher Unions and the Ontario College of Teachers

A clearer understanding of the role and mandate of these two organizations needs to be addressed during initial teacher education programs. Although this issue is addressed to a certain extent within initial teacher education programs, teacher candidates, for the most part, are confused about the role of these two groups. More critical discussion about the individual mission of these two stakeholder groups will assist teacher candidates and beginning teachers as they embark on their new career.

5.5.2 Extending Initial Teacher Education Programs Beyond One Year

Much has been written about the need to extend initial teacher education programs beyond one year. Studies by the Ontario College of Teachers and by faculties of education have demonstrated the value in providing a more comprehensive and detailed program. Although many studies support such a change in direction, very few Ontario faculties of education have embraced this change in a meaningful and concrete way.

5.5.3 The Importance of Case Studies

The participants consistently supported the need to refine practices, which incorporate the implementation of case studies as an effective means of bringing about student learning. As an example, an area where case studies can be effectively used is highlighting the challenges beginning teachers face when they are hired as long term occasional or as supply teachers. These challenges associated with these temporary positions can be explored by using real life case study scenarios during their initial teacher education program. While case studies are being used, faculty training geared specifically on the use of case studies will enhance the effectiveness of this instructional strategy.
5.5.4 Impact on Teachers when Reporting to CAS

Currently, initial teacher education programs focus their attention on a teacher’s legal and ethical responsibility when a child has disclosed a matter of potential abuse. This study has highlighted the impact on teachers when reporting disclosures to one of the Ontario Children’s Aid Societies. Many beginning teachers are not aware or prepared to deal with the fallout, which resulted from fulfilling this responsibility. Furthermore, teachers who find themselves named in a CAS case are emotionally affected. In many cases, these teachers, while their name has been cleared, never returning to teaching. Initial teacher education programs have a responsibility to discuss strategies and protective measures with teacher candidates in an objective and safe environment removed from the emotional stress of an ongoing investigation.

5.5.5 Electronic Social Networks and Electronic Communication

The majority of teacher candidates belong to a social electronic site or use email as a communication tool with parents and students. Meaningful professional development needs to be incorporated into the initial teacher education programs to ensure that teacher candidates have a deep understanding of the implications of continuing to be enrolled in social electronic networks and in using electronic communication. There continues to be an increase in the number of professional misconduct cases documented by the Ontario College of Teachers. Beginning teachers need to understand how to use electronic communication professionally.

5.5.6 Teacher Professionalism

One of the most difficult concepts for teacher candidates to accept is society’s expectation that they are teachers at all times. Initial teacher education programs need to provide in-service geared specifically to assist teacher candidates critically reflect on the need to maintain a professional demeanour while in the public eye.
5.6 Final Comment

This study supports the assumption that teachers, who focus their energies on making a significant difference in the lives of the students under their care, instill a system wide belief and a marked confidence in our public education system. Meaningful and exemplary initial teacher education programs, which incorporate knowledge of educational law play a significant role in preparing teacher candidates to fully understand the professional, ethical, and legal responsibilities associated with being an educator.
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Appendix A: List of Cases

Caldwell et al. v. Stuart et al., 1984. Supreme Court of Canada. p. 25


Morin v. Prince Edward Island Regional School Board (1999), p. 21

Multani v Commission Scolaire Marquerite Bourgeoys, Supreme Court of Canada. 2001, p. 19

Ottawa-Carleton District S. B. v. Scharf, Ontario Supreme Court. 2007 p. 27

Peel Board of Education and OSSTF. 2002 p. 24

Peixeiro v. Haberman, Ontario Supreme Court. 1994 p. 15

R. v. Cook, Ontario Supreme Court of Justice. 2006 p. 16

R. v Keegstra, Supreme Court of Canada. 1990 p. 22

Ross v. New Brunswick School District No. 15. Supreme Court of Canada p. 21

Scopes/Monkey Trial, Tennessee Court of Appeal. 1925 p. 25
Appendix B: Teacher Interview Questionnaire

The main research question will investigate how educational law impacts on the professional and personal lives of educators during their teaching profession and what role did the initial teacher education program have on one’s understanding of educational law. The questionnaire will be organized using the following themes; appropriate biographical information; length of teacher education program; perception of teacher education specific to educational law; legal situations encountered by teachers; level of confidence displayed by interviewee; approach taken by teacher when faced with a legal issue; and emerging themes between length of program and approaches to legal situations.

Section A: Biographical Information and Length of Teacher Education Program:

Name of Teacher: ______________________________ Gender ___ Age ___
School Board: __________________________________________
Teaching Responsibility: __________________________________________
Number of Years Teaching: __________ Current Role: ________
Other Careers: _______________ Degrees: __________________________

1. Can you tell me about the type of training you received during your initial teacher education program?
   • What was the length of your teacher education program? What were the different components of your teacher education program? What components of the program did you find most useful?
   • What kind knowledge and skill were you looking for when you entered the program? Possible probes: e.g., classroom management; dealing with parents, assessment and teaching strategies, special education, past experiences, areas that need attention in the future?
   • From the ITE program, can you identify one or two key areas you learned about the teaching profession?
2. Based on what you learned from your initial teacher education what changes would you like to see? Can you give me some examples? If no, can you say more about why not?
   Possible probes: Would you change the emphasis on particular topics or concepts to address changes in the ITE program? What kinds of different approaches need to be implemented in order for teacher candidates to be better prepared? Other changes?

Section B
Perception of Teacher Education Specific to Educational Law

3. How much time was dedicated to educational law in your ITE program?
4. Can you tell me whether issues pertaining to educational law were addressed during your initial teacher education program? Can you give me some examples?
   Possible probes: What particular legal topics or concepts were addressed in the ITE program? What kinds of teaching methods were used to assist you in your understanding of the impact of legal issues in your profession? Other insights?

Section C
Legal Experiences in the Field

5. Some ITE programs offer modules or courses on educational law and professionalism. I am just going to ask you about such areas that relate to law and the teaching profession. I am going to ask about each one because I am interested in finding out whether they are well-known to you or whether they were addressed during your teacher education program.
   i. Are you familiar with your supervision and duty of care responsibilities?
      (Possible probes: What are your responsibilities during yard duty, lunch and hall supervision, bus duty? What is your legal duty when you suspect a child is being abused? What are some of the areas where you are required to report?)
   ii. What are the implications of not fulfilling your supervision duties?
   iii. Child and custody issues – What is your legal responsibility to the custodial and non-custodial parent?
6. What is your understanding regarding a criminal records check? Do you feel they are helpful? Necessary? If yes, what do you find helpful about them?
7. What level of freedom of expression do you feel you have as a teacher when in the classroom? Does your level of freedom of expression change when you are not in the classroom? How? What might be some examples?
8. What do you feel are your legal rights when a parent or student publishes comments about you, on the Internet or otherwise?
9. How confident do you feel when dealing with legal issues as they relate to parents, students, and colleagues?
10. The next couple of questions relate to you as a role model for all students. How do you feel about your off-duty behaviour being a factor in possible disciplinary action? Where you do feel the line is drawn between inappropriate and acceptable off-duty behaviour? (What are some examples of each type?)
11. Do you agree that schools are at the forefront of many social issues? What are some of the social issues where schools play a role? 
   Possible probes: What expressions of religious rights are evident in schools? What social norms are evident in your school community, which may not exist in other communities?
12. How does educational law impact on your professional life? Examples?
13. How does educational law impact on your personal life? Examples?
14. What do you draw upon to make legal decisions?
15. What laws are enablers to your profession?
16. What laws are barriers to your profession?
17. What would you recommend needs to be in place to inform you about educational law?
18. Is there anything else that we haven’t talked about that you think is important for this study? Any other suggestions?
Appendix C: Educational Leader Interview Questionnaire

The main research question will investigate how educational law impacts on the professional and personal lives of educators during their teaching profession what role did the initial teacher education program have on one’s understanding of educational law. The questionnaire will be organized using the following themes; appropriate biographical information; length of teacher education program; perception of teacher education specific to educational law; legal situations encountered by teachers; level of confidence displayed by interviewee; approach taken by teacher when faced with a legal issue; and emerging themes between length of program and approaches to legal situations.

Section A: Biographical Information and Length of Teacher Education Program:

Name of Educational Leader: __________________________ Gender ___ Age ___
Educational Affiliation: __________________________
Work Responsibility: __________________________
Number of Years Teaching: __________________________
Number of Years in Current Role: __________________________
Other Careers: __________ Degrees: __________________________

1. Can you tell me about the type of training you received during your initial teacher education program?
   • What was the length of your teacher education program? What were the different components of your teacher education program? What components of the program did you find most useful?
   • What kind knowledge and skill were you looking for when you entered the program? Possible probes: e.g., classroom management; dealing with parents, assessment and teaching strategies, special education, past experiences, areas that need attention in the future?
   • From the ITE program, can you identify one or two key areas you learned about the teaching profession?

2. Based on what you learned from your initial teacher education what changes would you like to see? Can you provide examples? If no, can you indicate why not?
Possible probes: Would you change the emphasis on particular topics or concepts to address changes in the ITE program? What kinds of different approaches need to be implemented in order for teacher candidates to be better prepared? Other changes?

Section B
Perception of Teacher Education Specific to Educational Law

3. How much time was dedicated to educational law in your ITE program?
4. Can you tell me whether issues pertaining to educational law were addressed during your initial teacher education program? Can you give me some examples?
   Possible probes: What particular legal topics or concepts were addressed in the ITE program? What kinds of teaching methods were used to assist you in your understanding of the impact of legal issues in your profession? Other insights?

Section C
Legal Experiences in the Field

5. Some ITE programs offer modules or courses on educational law and professionalism. I am just going to ask you about such areas that relate to law and the teaching profession.
6. In your current role what issues regarding supervision and duty of care responsibilities have arisen? (Possible probes: Teachers and yard duty, lunch and hall supervision, bus duty? Legal duty of teachers when they suspect a child is being abuse?)
7. What are the implications of not fulfilling one’s supervision duties?
8. Child and custody issues – In your current role what legal situations regarding custody and access have arisen?
9. Do you feel criminal checks are helpful? Necessary? If yes, what do you find helpful about them?
10. What level of freedom of expression do you feel teachers should have when in the classroom? Does the level of freedom of expression change when they are not in the classroom? How? What might be some examples?
11. How common do issues related to the misuse of technology arise? What do you feel are a teacher’s legal rights when a parent or student uses the Internet or otherwise to publish comments about them?
12. How confident do you feel new teachers are when dealing with legal issues with parents, students, and colleagues?
13. The next couple of questions relate to teachers as a role model for all students. Do you feel about a teacher’s off-duty behaviour should be a factor in disciplinary action? Where you do feel the line is between inappropriate and acceptable off-duty behaviour? (What are some examples of each type?)
14. Do you agree that schools are at the forefront of many social issues? What are some of the social issues where schools play a role?
   Possible probes: What expressions of religious rights are evident in schools? What social norms are evident in your school community, which may not exist in other communities?
15. How does educational law impact on the professional life of a teacher? Examples?
16. How does educational law impact on the personal life of a teacher? Examples?
17. What do you draw upon to make legal decisions?
18. What laws are enablers to your profession?
19. What laws are barriers to your profession?
20. What would you recommend needs to be in place to inform you about educational law?
21. Is there anything else that we haven’t talked about that you think is important for this study? Any other suggestions?
Appendix D: Participant Information Letter

TO: Participants
FROM: Nick Scarfo
SUBJECT: Consent to Participate in OISE/UT Study
DATE: Summer 2009

This study entitled, *Touching the Future, Educators and the Law* will examine one’s level of preparedness to meet the ongoing challenges of the teaching profession. Specifically, the study will focus on knowledge and application of educational law.

All data from the survey will be reviewed and analyzed as part of the study. You will be asked to fill out a short questionnaire. Furthermore, some of you will be selected to participate in a 30-60 minute interview that will be recorded and later transcribed for analysis. In accordance with the requirements of the Office of Research Ethics, University of Toronto, only myself, and my research committee will have access to any data that is collected, and at no time will any name be identified in published documents. In the interest of protecting confidentiality and avoiding perceived conflicts of interest, you will not be informed of any teacher’s decision to participate (or not participate) in the study. Your participation and responses to any question during interviews and/or questionnaires are strictly voluntary. You will also have the option to withdraw from the study at any time, without consequence. All raw data will be kept secure, will not be shared with anyone others than those described above and destroyed five years following the completion of the study.

Risks and Benefits of Participation:

There are only minimal risks related to your level of comfort in your engagement in being interviewed. Interviews will not include questions that are sensitive in nature and you have the right to refuse to respond to any questions you prefer not to answer. Participation in this study is completely voluntary, and you may withdraw at any time without explanation or penalty. If you choose to withdraw from the study, none of the responses you provided during the interview will be analyzed or used in the results of the study. The results of the interviews will be shared with the individual participants. This will assist in clarifying any misunderstandings between the researcher and the interviewee regarding any interpretation of the data. There is no compensation for participating in the study.

If you are willing to participate in the study, please provide contact information and sign, print your name, and date this form below.
Thank you very much for considering this request to participate in my study. Your contribution will be highly valued. Please retain one copy of the letter and signed form for your records and return the other copy to me. If you have any questions about the study, please feel free to contact me or my supervisor at any time at the numbers below or e-mail me at nscarfo@oise.utoronto.ca.

__________________________
Signature

__________________________
Name (Please PRINT)

__________________________
Date

Contact Information:

Email_____________________________________

Phone__________________

Yes, I am willing to participate in an interview (if yes, please check). [ ]

If you have any questions and/or concerns at any time, please do not hesitate to contact me.

Nick Scarfo
PhD Candidate, OISE/UT
Email Address

Dr. Doug McDougall
Research Supervisor
CTL OISE/UT
Email Address

Office of Research Ethics
University of Toronto
ethics.review@utoronto.ca,
416-946-3273
Appendix E: Letter of Informed Consent

Department of Curriculum Teaching and Learning
The Ontario Institute for Studies in Education of the University of Toronto
Office 11-236
252 Bloor St West
Toronto, Ontario  M5S 1V6

I have read Nick Scarfo’s letter of informed consent and understand the intent, conditions, and safeguards of the study entitled, *Touching the Future, Educators and the Law*.

I agree to be a participant according to the descriptions and terms specified in the letter. I give my permission for Nick Scarfo to potentially use my responses in a research paper, article, or presentation about Educational Law at OISE/ UT. In any reporting, please note that there is no risk involved and that all names will be changed to ensure anonymity. I also understand that I can change my mind and withdraw from the study at any time without penalty, in which case, none of my responses will be used as data.

Please (print) complete the following:

Name:  _____________________________________________________

E-mail: _____________________________________________________

Signature: __________________________________________________

Date:  _____________________________________________________