

SCHOOL DISCIPLINE THEORY AND PRACTICE:
IMPLICATIONS FOR POLICY DEVELOPMENT IN AN
ISOLATED, RURAL SCHOOL SETTING

CENTRE FOR NEWFOUNDLAND STUDIES

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School Discipline Theory and Practice: Implications for Policy Development in an Isolated, Rural School Setting

**Paper Portfolio One: Historical Perspectives and Influences on a Changing Concept of
School Discipline.**

**Paper Portfolio Two: Conceptual Considerations Critical to School Discipline Policy
Development and Practice.**

**Paper Portfolio Three: Evaluation of the John Christian Erhardt Memorial Discipline
Policy**

by

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Paper Portfolio One

Historical Perspectives and Influences on a Changing Concept of School Discipline

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Introduction

School discipline has always been a challenge for educators. Within the last decade, publications including *Who Controls our Schools* (1989), *School Violence* (1990), and *An Outrage That Will Last* (1999) have reflected the concern of educators and the public for what is sometimes perceived as an erosion of educator authority and student behaviour in the public schools. Most recently this Province has brought discipline to the forefront through publication of two documents with directives to school boards: *Behaviour Challenges: A Supportive Shared Approach* (1996) and *Resource Guide on Discipline for Newfoundland and Labrador Schools* (1996).

This paper will examine how the concept of school discipline has changed in Canada over time. It begins by examining British and American influences on Canadian teaching practices throughout the nineteenth century and demonstrates how this resulted in a largely corporal concept of discipline. The paper further examines twentieth century developments that have led to an increased awakening of the need for a more holistic and supportive approach when dealing with the complex task of student misbehaviour.

Section I

Early Influences on the Canadian Concept of School Discipline

Nineteenth Century British School Ideology and Discipline Practice

If we are to understand the contemporary context of school discipline in Canada, it is important to understand the influences on it. Much of nineteenth century Canada was developed under the control and influence of British governance and tradition. It is therefore important to understand the British educational tradition which came to influence Canadian pedagogy.

Stewart (1968) argues that prior to the early 1800's there were two schools of thought about childhood which influenced English educational practice in that century. The first, known as "Classical-Christian", was based on the belief that childhood was not considered an early stage of development having its own special characteristics in the progress toward a full personality. Instead, children were essentially viewed as "incipient adults with unregulated passions" (Stewart, 1967, p. 32) and the whole object of education was to counteract the innate "depravity" of children. Classical-Christian thought rested on four tenants: 1) children are evil by nature; 2) childhood is a preparation for adult life; 3) education must consist of that which is useful to the child primarily in adulthood; and, 4) the value of subject matter lies not in its intrinsic interest but in the moral and intellectual training it can provide. Hard study, preferably in classics, including rote learning, was felt the best means of strengthening character. Should this fail in stifling "the vicious propensities of human nature" (Knox, 1781, cited in Stewart, 1968), then corporal punishment was seen as the necessary means to remedy behaviour.

The antithesis to Classical-Christian ideology, Stewart claims, is based on a Rousseau educational philosophy which rejected the belief that children were innately wicked and stressed

the importance of tutoring in stimulating and directing the acquisition of student knowledge. Interesting students in the educational process was stressed with emphasis on things rather than on words and memory work. Coercion and authority had little part to play in this structure of education. Moreover, natural sciences were viewed as important elements in education and Christian doctrine did not constitute a large portion of any curricula.

These two quite distinct and juxtaposed educational philosophies constituted nineteenth century British pedagogy. However, the former approach, having dominated pedagogy for centuries, continued to prevail in schooling practices because of a curious mix of economic events and social norms. The industrial revolution and the ensuing societal changes it instigated, delayed some of the more progressive reforms that would see an amelioration of corporal punishment and other punitive measures in managing students.

The literature reflects the kind of cultural milieu that maintained a Classical-Christian concept of school education. Beers (1984) describes how children were drawn into the process of industrialization as factories demanded a full day's work. This was especially true at the turn of the nineteenth century when large numbers of children were needed to assist in the spinning of cotton. Children were also employed in mines, canals and metal work as a result of technological change and expanding productivity. Roderick and Stephens (1981) describe the prevailing philosophy of the time, deriving from a belief that Britain owed her success to the natural character and qualities of its entrepreneurs; not its educators. There was great debate concerning the role of education in industrial English society. There were those who suggested that schooling and literacy would render the poor unfit for the performance of menial labouring tasks or worse, they cautioned, it could make the working class more receptive to radical or subversive literature.

Others claimed that education was the key to reducing crime and, consequently, expenditures on punishment. Stating that widespread crime within overcrowded towns of industrialized England cost 2 million pounds annually by 1847 (Sanderson, 1983, p. 17), it was argued that any expenditure on education to keep children out of prison or workhouses as adults would provide greater social utility. It was in this kind of social context -- one characterized by influential and powerful manufacturers interested in perpetuating benefits derived from child labour, laissez-faire societal norms, widespread apathy over education and powerful members of the clergy anxious to preserve their dominance in education -- that we discover schooling. As in previous centuries, schooling was left in the hands of voluntarists or individual entrepreneurs (Roderick and Stephens, 1981, Stewart, 1967). The first central government grant support was not available until 1833 and not until 1870 did a system having more uniform standards become established (Rose, 1991, p. 22). Such realities maintained an aristocratic society and worked disproportionately against the poor masses.

Dures (1971) describes the kinds of educational provisions available to the poor of nineteenth century England. At the end of the seventeenth century and the beginning of the eighteenth, Charity (i.e. endowment) schools, Sunday schools and private Dame schools were the principle institutions which brought education to the poor. These schools made a contribution towards the basic literacy of the poor, but their standards were often low. Even in the better of these schools reading was limited to religious literature, particularly the catechism and prayer books (Dures, 1971; Adamson, 1930). In a system devoid of state funding for much of the century, teaching and learning as we know it did not exist. Horn (1976, p. 18) reports that in many instances "the office of elementary teacher continued to be held by those who for reason of

age, infirmity or other disability were unable to obtain employment elsewhere". Ellis (1976, p. 24) in like manner, reports that many village schools serving the poor were often handed over to unemployed or elderly persons "solely to prevent them from becoming a burden to society". Being privately operated, often by individuals with limited prospects for betterment, and with a lack of regulations requiring minimal standards of compliance, conditions in many schools were inadequate. By mid-century the unsatisfactory conditions of many Dame schools were reported by inspectors with depressing regularity. Criticisms were usually made of the inadequate accommodations, sanitary defects and defects related to heating, lighting and ventilation. West (1975, p. 50) citing the Manchester Report of 1834 describes how in one Manchester Dame school "... eleven children were found in a small room in which one of the children of the mistress was lying in bed ill of the measles. Another child had died in the same room a few days before". Ellis (1976, p. 4) cites the report of an inspector who visited "a low room in a poor cottage, with no window that ever opens and a door that barely shuts, with a damp tiled floor and dingy walls... seeming to reek with the exhalations of pent-up humanity". Although the literature points to notable exceptions to such vagrant accounts (see West's (1975) account of Birmingham Dame schools), it would seem that many schools remained defective even by mid 1800 standards. Ellis is especially clear on this point, noting that the Dame and other private schools which "were the most notoriously defective and telling" accounted for nearly 70 % of the total private school attendance by 1858 and were found in every town and village" (p. 3).

If conditions were poor, teaching practices in many of the schools serving children of the working class were especially lacking. In the words of one such teacher "if I can keep them quiet, it is as much as I can do and all I'm paid for" (Dures, 1971, p. 24).

Given the pervasiveness of Classical-Christian teaching and lack of teacher professionalism reported by the literature, it is understandable that thrashing and other various means of corporal punishment was all too often the principal and only means of behavioural management in many English schools. Citing an account from the Charity Commissioner of 1830, Horn (1978) describes the kinds of barbaric practices that could be found in schools serving the poor. The report describes how, in one case, a school master had a whip which he called 'Old Hagger', a device identified as an instrument of torture. In administering punishment, the master would:

hold the boys between his legs by their head and neck and operate most unmercifully upon their hind quarters. Sometimes the boys would have their revenge by biting his legs, and repeatedly have ... his old grey or white stocking saturated with blood from the wound thus made from the teeth of his victim. (However), the old chap still had some of his marine fighting quality left in him, and before he let his victim free, ... would generally have his revenge... (pp. 21- 22).

Adamson (1930) describes how in the 1830's punishment was used even for relatively minor offenses and this practice extended equally to the great public schools. "They flogged their way through term after term with a high sense of duty accomplished; flogged if a lesson were not known, flogged for inattention, flogged for disorder, flogged for bullying, flogged for vice" (Adamson, 1930, p. 62). Headmaster Heath of Eton on one occasion flogged seventy boys in turn, and another head, it is recorded, left dinner guests to flog eighty boys.

If discipline procedures for controlling nineteenth century student behaviour were largely punitive in many of the private schooling institutions, conditions were not made much better with

the development of a major educational innovation during the period -- the Monitorial system of education. Developed in England in 1798 and paralleling the form and function of factories, the Monitorial (or Lancaster) system could supposedly handle as many as 1000 students at a time. Providing an opportunity to bring mass education to the working class, pupils were seated in rows and received their instruction from student monitors. The monitors received their instruction from a single master who sat at the end of a room.

Because the system was inexpensive, it was well-suited for Charity schools and other facilities assuming responsibility for educating the rapidly growing lower class school population. More importantly, the system was designed to provide training in character development through the use of badges and tickets. The tickets were redeemable in prizes -- tops, balls, books, and pictures -- each of which had a stated money value. The main motivating principle in learning was therefore competition (an industrial virtue) and emulation, as it was called, was hailed as a pedagogical advance since it represented an alternative to corporal punishment (Kaestle, 1973, p. 8).

Although the Lancaster or Monitorial system advocated the use of corporal punishment as a measure of last resort, the alternatives used most frequently to support the concept of emulation (humiliation and personal degradation) were equally harsh and objectionable. Menke (1993, p. 54) reports that for repeated offenses of talking or idleness, a wooden log of four to six pounds was placed on a pupil's neck. The log was designed, in Lancaster's own words, "to encumber the neck when the delinquent turns to the left or the right. While it rests on his shoulders, the equilibrium is preserved; but, on the least motion one way or the other, it is lost and the log

operates as a dead weight upon the neck” (cited in Menke, 1993, p. 55). Alternative methods of humiliation included the use of the “dunce cap” or tying a student’s legs to wooden shackles before having him or her walk around the room until tired. Perhaps the most ingenious form of humiliations involved the use of rope and a sack.

Should not (other methods of humiliation) have the desired effect ... boys are put in a sack, or ... basket (and) suspended to the roof of the school, in sight of all pupils.... This punishment is one of the most terrible that can be inflicted on boys of sense and abilities (Lancaster, in Kaestle, 1973, . 80).

By contemporary standards such methods of achieving school discipline may not seem much of an improvement over the use of the rod. The Monitorial system, based as it was on order and regimentation, further advanced restraint and control-oriented discipline practices. In retrospect, both the extent and magnitude of repressive pedagogical techniques chronicled in nineteenth century school literature would, in Archer’s (1954) words “present the most striking evidence that discipline, as now understood, was non-existent (over) one hundred years ago” (p. 61).

By the late 1890s, in contrast to many European countries, England had not passed any laws against corporal punishment (Reed, 1990). Corporal punishment and other punitive measures remained an acceptable and widely practised means of student control and its use in Britain extended well into the twentieth century. This is especially relevant to our understanding of the early nineteenth century Canadian concept of school discipline. During this time Canada and its education system was in its formative stages and as Axelrod (1997) suggests, whether in the metropolitan areas of the day or the backwoods communities of Canada, many of these areas remained largely dependent for teachers upon men who had been educated under the harsh

discipline of the British educational system. During the early nineteenth century, Upper Canada had private schools, church schools, grammar schools and dame schools (Cochrane, 1981). Since Canada's school structure reflected a strong British tradition, it is understandable that large sections of English-speaking Canada would inherit the educational ideology and pedagogical practices of the "motherland".

Early American Influences on Canadian Education

Throughout the 1800s, Americans immigrated to Canada in great numbers and brought with them their values and practices which, in many respects, were in close conformity with English ideology. This would have important implications for Canadian education. Herbst (1996) articulates how the belief in the natural depravity of the child, so prevalent in Britain, was also strong in many parts of America throughout much of the 1800s. Strengthened by the Calvinistic views of Puritan New England and other eastern states, it was felt that the will of the child to do wrong had to be broken by physical force while the child was young and amenable. Abbott, an 1834 American writer, reflecting the Classical-Christian philosophy identified by Stewart (1968) in England, claims "that the great object of education is to prepare the child for its heavenly home" (p. iv). To this end and writing on the subject of family governance, he states:

it is certainly the duty of parents to convince their children of the reasonableness and propriety of their requirements. This should be done to instruct them But there should always be authority sufficient to enforce prompt obedience.... Indeed, it is impossible to govern a child by mere argument ... and often its wishes will be so strongly opposed to duty, that all efforts to convince it will be in vain.

The first thing therefore to be aimed at, is to bring your child under perfect subjection (cited in Abbott, 1973, p. 21).

As in England, punishment was consequently meted out with few restrictions. Travers (1980) reports that it was common for a teacher to split the end of a branch and fit it onto a boy's nose and force him to stand until the teacher relented. Sewing thimbles were used as instruments to tap on small heads, while wooden bits similar to a bit used in a horse's mouth were often inserted into the mouth of the obstreperous child and tied to the back of the head. The well known dunce cap, a feature of British Monitorial schools, was a common means of humiliation. Strapping was also a common practice. Travers, writing on the repressive cruelty in America, states that "ears were pulled and boxed, bare knuckles made havoc on young skulls, and what unaided nature could not provide in the way of offensive agencies of punishment was supplemented with the aid of the whip, the birch and the ferule (a rounded ruler)" (p. 185). Cubberley (1972) further indicates that as public tax-supported schools began to emerge in the first quarter of the nineteenth century, local school district certification requirements continued to view religious, moral, political and disciplinary factors as important criteria for employment. One of the criteria for a teaching license was the ability to maintain order and, as Cubberley reports, a sure way to lose certification was to be considered incompetent in the area of student control. It is clear that good school and classroom management was believed to be contingent on strict militaristic and punitive measures in many American schools during the early 1800s. These factors preceded the more professional considerations established by various state departments in the mid nineteenth century.

Travers (1980) also identifies how punitive measures associated with school discipline would not change rapidly in the United States as educational power gradually shifted from local to state level during the latter half of the period. Exacerbating the problem was the fact that many teachers were incompetent. Until the end of the nineteenth century, school teachers were not graduates of Normal schools and essentially disinterested in their careers. Moreover, even with increased graduation from Normal schools, Menke's (1993) research indicates that rather than being competent, dedicated and more morally-minded individuals maintaining good classroom discipline, early twentieth century American teachers continued to be poorly prepared both academically and pedagogically. They continued to "struggle with disobedient students for control of schools" (Menke, 1993, p. 58). The general lack of professionalism within the teacher population perpetuated an authoritarian approach to schooling and its management.

Such circumstances would have implications for Canadian pedagogical practices. Titley and Miller (1982) report how the tide of immigration from the United States into Canadian colonies had been strong prior to and throughout the 1800s. For reasons related to the American Civil war and to take advantage of free land, American immigrants essentially invaded the colonies of Upper and Lower Canada as well as Eastern parts of the country including present day Nova Scotia and New Brunswick. So profound was the tide of American "newcomers" that by 1812, American immigrants outnumbered all inhabitants in many parts of Upper Canada two to one (Titley and Miller, p. 12). These people did not wait for local governments to establish schools. In true frontier spirit, they established schools and brought to Canada their traditions in education. These traditions all too often included a Calvinistic belief and repressive means to

control student misbehaviour. Johnson (1950), quoting one American teacher of the time, states that the overriding educator philosophy was premised on the idea that there could be “no lamen, without a lickin”. Thus we find for a fledgling country forged by a tide of immigration, American educational influence, like their British European counterpart, stressed a preponderance of punitive measures for insuring student behavioural compliance.

Pedagogical Practices in Nineteenth Century Canada.

Given the extent and magnitude of British and American influence, it is not surprising that corporal punishment would be widely used in Canadian schools as an incentive for learning and a deterrent to inappropriate student behaviour. In Quebec during the 1840s, Perceval (cited in Johnson, 1950, p. 200) states that “children were accustomed to taking their daily caning almost as regularly as they took their daily meals”. Johnson further articulates how noted scholarly teachers were particularly “good disciplinarians”, a practice equally extended to the common and independent schools of the time despite calls for “greater understanding”.

Cochrane (1981) describes the many little red schools that dotted the Canadian rural landscape throughout the nineteenth century and articulates how these institutions by their very nature encouraged student misbehaviour and corporal-style discipline practices. Although it is recognized that these schools made a contribution to the education of Canadians, he reports how in a rural apprenticeship society, parents often had little or no tradition of schooling and very limited means of supporting such a system. Educational standards lacked uniformity and were substandard. There were few standards for teachers (other than being willing to take the job),

textbooks were in short supply and of an adult nature, and school buildings were often poorly constructed. Children were often forced to study in poor lighting conditions using a curricula rarely suited to their needs. Poorly trained teachers faced with a lack of supplies, sometimes overcrowded conditions and a heterogeneous student population, could see little recourse other than a militaristic style of teaching. Frequently frustrated, this was a time when the one-room Canadian teacher, like their American and British rural counterpart, was known to gag a whisper with a wooden stick and put hot mustard on the tongues of liars. Lamenting on the situation, Cochrane (1981) reports stories of how brutal, drunken schoolmasters, the strap and willow rod date this (nineteenth century) period of Canadian schooling.

However such patterns of punishment would not continue in Canada. These kinds of behaviours occurred under a system that often lacked funding, adequately trained teachers or compulsory attendance laws. Ontario had free and universal education in 1877, Nova Scotia in 1864, Prince Edward Island in 1877 and the Western provinces had likewise as they joined confederation. Newfoundland had universal education by this time (Cochrane, 1981, p. 11). Normal schools were established to train teachers, an inspector system was devised and authorized Canadian textbooks began to appear in many schools. Although it would take some time for an alternative pedagogical view to emerge, coupled with other related twentieth century movements, it provided an impetus for a decrease in the use of corporal punishment as a pedagogical disciplinary practice.

In retrospect, the period between 1800 and 1867 was a turbulent one in forging a nation from what was formerly a British colony. Canada would be born as a nation from the influx of

Scottish, British, American and, later, European immigrants who would define its unique mosaic. Furthermore, its society would undergo a population shift from largely rural to two-thirds urban within the century (Johnson, 1968). Such events had major ramifications for educational institutions, especially those in the wealthier heartland of the dominion. Controversies regarding Royal Institutions in Lower Canada, the Rebellion of 1837 and the Durham Report represent a power struggle that occurred among the Anglican Church, the Roman Catholic Church, Legislative Assemblies and British Colonial administration of the time. Whether this was to lead to the confirmation of church directed systems (as in Quebec) or to the establishment of new systems (i.e. common school in Ontario, an American tradition), the effect was the same -- a perpetuation of largely British and American influence with a heavy-handed approach to school discipline.

A synthesis of the events reported for the nineteenth century suggests that the societies of England, United States and Canada were in a state of flux and this resulted in a disproportionately slow development in the methods, curriculum and techniques of teaching. Although attitudes would eventually change, discipline in the nineteenth century was largely viewed as an act quite separate from the art of teaching. Stern measures to encourage compliance were viewed as the essential and often only means of ensuring compliance and “proper” student conduct.

Section II

Twentieth Century Educational Developments: A Changing Concept of School Discipline in Canada.

Progressive Education

Western societies at the turn of the century were grappling with the unequal distribution of wealth brought about by a century of industrialization and the societal shifts it initiated. Berube (1994) states that between 1890 and 1907 nearly 18 million European immigrants came to America. Furthermore, by 1910 three-fourths of the population of such areas as New York, Boston, Detroit and Cleveland were either first or second generation immigrants. In Canada, the population increased four-fold by 1905 (Cochrane, 1981, p. 11) and as in the United States, the trend was towards urbanization. Crime was increasing and there were widespread concerns about the “disintegration and decay in society” (Berube, 1994). There came the recognition that if western democracies were to survive, there would have to be a new social order, one that would reform city and national governments as well as aid the poor. Such attitudes gave rise to what is known as the progressive movement and its effect spilled over into education. Known as progressive education, the rescue of children was seen as key to alleviating future social problems. Education was to centre itself on the child, “an innocent being to be moulded into a citizen having fully developed talents” (Berube, 1994, p. 10). This movement, originating in the United States with the establishment of the Progressive Education Association in 1919, had as its leading proponents John Dewey, F.W. Parker and William James. The movement placed a renewed emphasis on teacher-student relations consistent with the Rousseau approach to education. James (1925, cited in Johnson, 1950, p. 50) articulates the identifiable change considered important to education at this time-- “The renovation of nations begins at the top and spread slowly downward

so that teachers of this country ... have its future in its hands”.

Alan (1995) identifies some of the important underpinnings of Progressive Education as espoused by Dewey and other leading proponents. Progressive education advocated:

1. A doctrine of interest - To make school work interesting in the Dewey sense meant to select it in accordance with the student's purpose and motive and to further use this as an incentive.
2. Democratic school life - The progressives promoted the view that schools must train students for democracy and for this purpose, they effectively argued that the old conventional, autocratic style of discipline, aimed at blind obedience, would not work.
3. Teacher as friend and guide - The importance of educators putting friendship in place of mere obedience was advanced. Drawing out a child's inner capacity and shaping student's personality was seen as instrumental to schooling and future society.
4. Self-control - Democratic living and guidance in schooling would innately and unconsciously provide the means for self-discipline.

American educational ideology, as in the 1800s, influenced Canadian pedagogical practices during this early quarter of the century. Johnson (1950, p. 217) notes that “throughout this period the progressive influences were noticeable in the various curriculum revisions from British Columbia to Newfoundland”. He cites remarks made by British Columbia and Ontario inspectors' reports commenting on the marked change in school discipline approaches, noting greater freedom, more cooperation and fewer teacher-centred classrooms. This is evidenced by some of the remarks contained in the literature of the time. Macphee (1927, p. 35), commenting on the change in orientation states, “there are unmistakable signs ... that our system has been defeated by the passive resistance of the child and will agree that the wisdom of the teacher must

be supplemented by the energy and enthusiasm of the child”.

Given the aforementioned evidence of the progressive movement and its inculcation into Canadian education systems, early twentieth century teaching practices revealed a marked departure from former widespread Classical-Christian based pedagogy. Educators came to question the Classical-Christian view which held that the more discernable the educational task, the greater character development ultimately achieved. The new ideology heightened an awareness that if greater student self-control were to be attained in schooling, it would be a natural outcome of discipline procedures based on a more humanistic orientation.

The Mental Hygiene Movement

At the turn of the century the Progressive Movement in education was made possible by other societal developments. In Canada, as in the United States, increased attention had been given to schools as a means of mental illness prevention. Based on psychological research of the time, there came growing recognition that children had to make three fundamental adjustments to school life: 1) social adjustment to fellow classmates, 2) social adjustment to authority and system constraints and, 3) adjustment to recognizing self-limitations within such a system (Burnham, 1971). For these and related reasons, and with a widely held view that teacher relations may be a contributing factor to the mental health of the student populace, increased interest was being shown in areas related to school behaviour and other school discipline factors.

Johnson (1950) provides evidence demonstrating that by 1920 a Canadian National Committee for Mental Hygiene was regularly carrying out research into Canadian Schools. Having carried out preliminary work in British Columbia, Manitoba, Saskatchewan, Ontario and

Quebec by 1919, it was already becoming evident that restlessness, inattention, and other conduct disorders were often characteristics of mentally deficient children (p. 274). By the 1930s and 1940s, the National Committee on School Health Research was regularly demonstrating that discipline problems were caused by fear and factors related to failure to meet the psychological needs of children. Johnson credits the work of such committees and publication of a teacher magazine, *Understanding the Child*, with bringing about an increased awareness among educators as to the psychological bases of behavioural problems, the need for support services and a more positive approach to discipline.

There seems little doubt that the mental hygiene movement helped forge current, less corporal concepts of school discipline in a number of ways. First, it identified that teachers tend to classify student behaviour most often as simply “good” or “bad” whereas, in reality, behaviour is identified as a much more complex and socially constructed phenomena. It is interesting that the work of Baksh, Martin and Singh (1980) which found that “discipline problem(s) are socially constructed” was reported three decades prior by Selinger (1950, p. 67), a hygienist, who wrote “misbehaviour is a social concept and should not be considered abnormal”. Secondly, hygienists identified the limited effectiveness of corporal punishment. They demonstrated that effective self-discipline was the goal to achieve in schools. Discipline, it was argued, based on fear or threat tend to push students to test limits or temporarily suppress willful defiance (Heath, 1971, p. 159). This is in keeping with our modern concept of student management (Durrant and Rose-Drasnor, 1995). Thirdly, the psychological basis of the movement lent scientific support to the notion of the guiding role of the teacher as espoused and popularized by the Progressive Movement. Blanz’s (1928) early psychological work stressed the importance of the new role of

the teacher in fostering pro-social behaviour. It was argued that student guidance, unlike corporal punishment, helped students to learn that there were always consequences associated with any action and positive student behaviour, like other aspects of development, should be aided.

The mental hygiene view of pupil-teacher relations highlighted one other aspect of many contemporary and widely recommended discipline approaches-- the importance of studying the student. As early as 1939, Laycock in *The Diagnostic Approach to the Problems of Pupil Adjustment* emphasized the importance of data gathering and the case study method in matters pertaining to discipline. From a psychological perspective, he recommended and advanced the diagnostic study of students along a number of fields including school history, area of achievement, teacher reports and data collection associated with family history and personal interview. While this approach is now standard practice in educational therapy, it is an important contemporary component for demonstrating procedural due process and "reasonableness" in discipline-related court challenges. Harte's (1994) recent advice to Newfoundland educators when formulating and implementing discipline policy with respect to the *Charter of Rights and Freedoms* is particularly contingent on such methodology. He cautions that in order to demonstrate due process "school officials would be well advised to establish a discipline file on each student, recording (impartial) information as to the date, nature and history of serious infractions, the names of teachers and students involved, and the actions taken" (pp. 13-14). Therefore, we find that current professional and legal student discipline protocol is traceable to the ideology of the mental hygiene movement-- a movement that held a broad view of discipline, one having respect for persons as its philosophical orientation.

Section III

Contemporary Developments

Student Rights:

The turbulence of the 1960s brought about a reawakening of the need for greater human rights in a pluralistic North American society (Berube, 1994). Through development of organizations like the Coalition for Equality and backed by Child Welfare legislation and various legal statutes including the *Charter of Rights and Freedoms*, particular emphasis has been placed on the rights of students. This has had important ramifications for contemporary discipline practices. The agencies of child and student protection have effectively advanced the moral argument stated by Watkinson (1988, p. 19) arguing that in a time when “statutes now prohibit wife beating, the flogging of sailors, the owning of slaves ... and the whipping of prisoners and the insane, continuing to give credence to acts of student punishment would relegate students to a status of second class citizens”. This is a deleterious position and antithetical to the purpose of education. Irrespective of moral suasion, there are the contemporary legal realities making the use of force a very contentious and a potentially dangerous teacher act. The use of force is covered by section 43 of the Criminal Code. Section 43 states:

Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstance.

However, section 43 represents common law and its applicability must be viewed in its broad legal context. Other Acts, including the *Child Welfare Act* gives balance to the course of

jurisprudence and makes the task of student discipline open to increased scrutiny. In Newfoundland, for example, the *Child Welfare Act* (1990) defines three forms of abuse -- physical, sexual and emotional -- and establishes that any child whose survival, security or development is endangered is a child in need of protective services. In the majority of court cases which have dealt with punishment, there has been clear evidence that administered punishment could be consider physical punishment and educators are cautioned in this regard (Watkinson, 1988; Harte & McDonald, 1994). Furthermore, The *Charter of Rights and Freedoms*, introduced in the 1980s, is an entrenched, supreme source of law guaranteeing freedoms to all Canadians including the freedom against cruel and unusual punishment (section 12).

Clearly, the act of disciplining students is a complex affair. If anything can be concluded from the foregoing it is the need for “fairness” in school discipline procedures . Over the past nine decades, legal requirements have given legitimacy and further impetus to student rights and the humanist approach advanced at the turn of the century.

Research Findings on the Complexity of Teaching

It must be recognized that a number of other complex social forces have shaped a desire for a more encompassing view of school discipline. These forces include factors related to economics, demographics and poverty in a rapidly changing society.

In a time of economic restraint, the late 1980s and 1990s have witnessed an increased scrutiny of public systems, including the public education system. Much of this public scrutiny centers around the perceived lack of skills and how students are ill prepared for the realities of

the 1990s. One such criticism is similar to that identified by Barlow and Robertson (1994). They point out that current economic realities require greater frustration tolerance, personal discipline, organization , management and interpersonal skills. Yet, in the face of increased bullying and other forms of violence in our Canadian schools, these skills are publicly perceived as noticeably absent (Means & Knapp, 1991). Parents want to be better informed on matters that affect their children, they want input into decisions that affect them and, increasingly, there are calls for a more systematic approach to discipline; one based on greater inclusion (Lacosta,1994). Paradoxically, inclusion has brought great complexity to the act of disciplining and policy formation. Educators have to balance the problems of trying to accommodate the demands of many levels of behavioural problems, including students with emotional and behavioural deficits and their rights to education, with the rights of the general school populace and their rights for safety. Such a task is formidable and has resulted in calls for a multifaceted approach to school discipline.

Demographics have also created a new environment in which schools are to operate with implications for school discipline. More than 60% of Canadian children now have both parents employed outside the home (Cregheur and Devereaux, 1991) and Canadian school children are much more likely to be living with a single parent. Gone are the days when schools can simply elect to send a student home on short notice as a result of a serious school rule infraction. The new reality is that sending a student home is not always appropriate, pointing to the need for on-going home-school communications. Exacerbating the situation for educators is research demonstrating that family structure and practices can actually contribute to student aggression. Means and Knapp (1991) point out that aggression and coercion can be modelled from the home,

and discipline practices, if inconsistent with that of a school, are themselves contributing factors to violent and inappropriate student behaviour. Thus, while there may remain great value in simply removing a student from a school, the research suggests that traditional out of school suspension should be but one avenue for dealing with recalcitrant student conduct. Not only may suspensions fail to treat underlying causes, they may potentially contribute to such problems. This and related research has identified the need for educators to find creative solutions in combatting inappropriate student behaviour or behaviours which may otherwise interfere with the learning process.

Finally, poverty is an especially complex factor that has been recognized as creating many problems for schools including those related to the management of students. Anoti (1986) reports that by the end of the 1980s, 1.1 million Canadian children were living in poverty and the numbers have continued to increase (Levin and Young, 1991). Most often cited in the literature are the effects poverty has on academic performance because poor children are often preoccupied with physical needs. Slavin (1991) further identifies that children of poverty frequently come to school having emotional deficits related to increased stress and fewer coping mechanisms. The manifestations of such emotional problems is often seen in increased occurrences of acting out behaviours or behaviours that interfere with the teaching process. There is convincing evidence that educational programs which address problems of poverty result in dramatically increased success rates for students (Kirst, 1984). Furthermore, broad-based community efforts aimed at changing attitudes about aggression have been shown particularly effective in curbing violent and antisocial student behaviour (Ross & Shillington, 1988).

Clearly current and emerging research has brought about a raised educational

consciousness concerning the need for prevention and early intervention in school discipline.

Moreover, it has identified the need for preventative measures to extend beyond the traditional realm of the teacher-parent-school triad to ideally include a community and professional role in meeting the behavioural challenges of the 1990s.

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Paper Portfolio Two

Conceptual Considerations Critical to School Discipline Policy Development and Practice

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Introduction

Since very early times discipline has occupied the minds and practices of educators. Nineteenth century school discipline practice in Britain, the United States and Canada demonstrates failed attempts to apply a simple, punitive solution to student misbehaviour. An earlier paper identified how a growing body of health, legal and educational literature initiated movement away from a punitive approach to student behaviour in Canadian schools. The shortcomings associated with nineteenth century discipline practice were inherently inappropriate and could not be tolerated. However, despite a far more knowledgeable teacher populace in recent years, current educational literature and media remain ripe with instances of teachers and administrators confounded by student misbehaviour -- behaviour so extreme that teachers report feeling members of a cheapened profession. Auty (1995) provides insight into the extent and complexity of the problem:

Concern for safety in the schools has been building over the past few years. Parents, teachers and students have watched with dismay the increase in violent incidents on school property.... Students point to racial incidents as the harbinger of a scary future. Caretakers worry about working alone and complain that the powerful educational management does nothing to protect them. Teachers rail about not being able to get on with their true vocation of teaching.... Students from the smallest to the biggest continue to test boundaries and find, to their amazement, that boundaries shift. Suspensions don't work - the kids regard them as a holiday. Meanwhile, good kids and their parents wonder how long the bad kids will be allowed to disrupt everyone's education. Administrators are thrust into a world of individual rights, legal challenges and crisis management that does not fit with their original vision of school leadership (pp. 18 - 19).

Juxtaposed with this frightful state of affairs is literature illustrating the important role of schools in making a positive difference to the life and behaviour of students. Comer (1980), for example, examined current research on the importance of schools in the prevention and response to such serious teen problems as drug abuse, early pregnancy, school failure and delinquent behaviour. With respect to the latter, Comer identified the contribution and significance of schools. He states:

The prevention of delinquency appears to be embedded in the prevention of school failure. Whether delinquency prevention is actually a field in itself or whether it should be subsumed under the rubric of educational remediation is an unresolved issue (pp. 236 - 237).

There also remains the infrequently cited success stories, like Harry R. Hamilton Elementary School (reported by Rogers, 1995) which seemingly have gotten the practice of school discipline right. Significantly, when students can continue to make claims that “You don’t feel like you’re going to be beat up by a bully” (Rogers, , 1995, p. 34), it reaffirms the value of the school setting in meeting the behavioural challenges of students.

This paper will explore issues helpful in identifying and explaining the dichotomy evident in current school disciplinary practice. The objective of the paper is to identify important principles upon which effective school discipline policy should be based and evaluated. Section one of the paper begins by examining the purposes served by discipline and through an examination of power, authority and control concepts, criteria important in formulating school discipline policy will be ascertained. Section two of the paper examines the legal dimensions of

school discipline. Through consideration of the changing legal landscape and provisions afforded teachers and students in varying sources of law, teacher authority versus student rights will be discussed and school discipline policy criteria further delineated so as to allow policy to meet the challenges posed by a more litigious landscape.

Section I

Critical Dimensions of School Discipline Practice I

The Purposes of School Discipline

To understand school discipline, it becomes important to identify the purposes served by it. The literature identifies two main purposes: 1) to provide an orderly environment in which to learn; and 2) to prepare students for life in a democratic society.

The former purpose identifies how discipline serves a very practical and common function for schools and their constituents. As institutions created or legitimized by government, schools have a primary function in teaching a government approved curricula and ensuring that related learning takes place. There is the unquestioned assumption that schools will work as diligently as possible in achieving this mandate so as to be places of success for students and the greater community at large. Mamchad and Mamchad (1981) and Ramsey (1994) establish how learning flourishes in an orderly environment. By creating a sense of organization - - a defining hallmark of effective discipline - - discipline gives legitimacy to the process. Ramsey states, "A school stands or falls on the effectiveness of its discipline. Without order, safety, and a sense of security and civility, schools can't work and learning will not occur" (p. 7). The problem both historically and currently has always been one of achieving the kind of order most productive for

teachers, students and schools as learning organizations. As pedagogical practices of the nineteenth century showed, order conceptualized as blind obedience is insufficient and ineffective, creating somewhat of a paradox. Although order is needed for learning, the mechanisms used to achieve order can impede learning. This illustrates the complexity of discipline as a concept. It further demonstrates how “good” schools and effective student discipline may be easy to describe, yet very difficult to achieve.

The latter purpose identifies how schools as social agents are expected to foster and promote social ideals concerning the quality and nature of its citizens. Sergiovanni (1994) is quite clear on this point and states that “the best discipline strategies are those that teach students citizenship....” (p. 120). In democratic societies, societal ideals include principles of trust and respect, fair and equal treatment, and importantly, the freedom and willingness to participate. Kahn (1996) concurs with Sergiovanni on this point and articulates how these very same descriptors are at the heart of truly meaningful school governance and practice. He argues that schools must operate as a microcosm of larger society, arguing that disciplinary policies and practices should be viewed as constitutions, collectively generated and cherished.

The close association of societal ideals and character development as a function of educational and disciplinary practice has long been enunciated. Buber (1939) illustrates the point in stating that “Education truly worthy of its name is essentially education of character” (Buber, 1939, cited in Kahn, 1996, p. 53). His comments further describe how discipline as a system of techniques and practices seeks to teach and cultivate many time-honoured expectations. In contemporary times, schools, once thought to be the harbingers of safety and all that is good, are now increasingly perceived as more violent places and less “champions” of the cause. It is for

these and related reasons that schools have drawn some of their sharpest criticism (Barlow & Robertson, 1994). Unless school governance practices are made effective and are perceived as such, schools will continue to be open to public scrutiny and disfavour.

Power and Authority in School Practice.

Educators and philosophers continue to debate what Oyler (1996) identifies as the “invisible forces” that influence and shape attitudes and behaviour of people in social gatherings. Two of these forces, power and authority, become important to a conceptualization of school discipline since they shape underlying assumptions and concomitant practice. As Sergiovanni (1994, p. 25)) points out, “get the theory right and the practice will follow”.

Throughout the literature there remain many divergent opinions as to what power is and what it can do. Dubrin (1995) describes power in terms of what it can do -- “the ability to influence decision making and control resources”(p. 30). Mamensk (1982) explains the effect identified by Dubrin. For Mamensk, power is quintessentially the ability to suspend judgement. The literature also suggests that power may be a feature of the person (i.e. referent power and knowledge power), a special “gift” for which there is no adequate account (charismatic power), or an aspect of the organization itself (i.e. positional power). These conceptualizations of power identify the concept both as a possession and attribution, derived from certain activities. Importantly, it suggests the potential for incongruence within the power paradigm. Apparently, one may or may not “have” power even while attempting to “exercise” it. This is particularly meaningful for educators because it suggests that if in practice we are to get to the point where judgement is suspended and there remains no question as to the logic or utility of a request,

power must be achieved “bottom up” before it can be actioned “top down”. As many school educators come to discover, in contemporary times the real basis “for getting things done” (i.e. power) lies in power being earned as opposed to an inherent commodity of a position or one for the taking. Moreover, the theory underlying much of the school and classroom management literature throughout the ‘70s and ‘80s (Reubel,1977; Bridges & Scrimshaw,1975) and to a lesser extent today (Canter & Canter,1992; Albert ,1989), viewing student misbehaviour as acts of power, may need some reformulation. McKay (1995) implies that the random acts of violence and bullying increasingly prevalent in many schools today are a natural outgrowth of educational structuring -- actions that have resulted in greater student powerlessness. He explains that as schools from the 60’s became better endowed with facilities like gymnasiums, changes to the social dynamic of student-student and student-teacher interaction ensued. Commenting on the problem he states:

We started to see adults (gym teachers) direct the play. Adults chose the game of the day... and rules were absolute. The teacher called the shots, made and doled out the rewards (‘nice shot Johnny’) and the punishment (‘ if you forget your shorts next class you’re out). Children were taught how to play *proper games properly* (p. 30).

It can be inferred from McKay’s account of schooling that student misbehaviour may indeed originate less from a desire to gain power (i.e. to dominate), than a response to circumstances of powerlessness. This is a debatable point within the literature (see Albert, 1989) but it does indicate that if schools are to improve, students must increasingly be brought into the fray. As DePree (1989) suggests, in a curious sort of way, if educators are to increase their power base, they have to be ready to relinquish it. This is the rationale behind the

transformational movement in educational leadership (Leithwood, 1994). Senge (1990) agrees that it is this approach to power that contemporary practice must model if schools are to become places of greater learning with a greater sense of ownership.

Authority is another concept important to an understanding of discipline practice. Currently there are calls from within educational and public circles for teachers and administrators to “act with greater authority”. The underlying assumption is that students can and should submit to an educator’s will. This is a commonly held view of the teacher-student relation and authority. Coleman (1998) defines authority as “submission to someone’s or something else’s power” while Shor (1996) states that in a very real sense, authority essentially means “do what I tell you to do because of who I am and who you are” (p. 32). Sergiovanni (1994) identifies two broad interpretations of authority. The first is rooted in what he calls Gesellschaft ideology. By this he means that submissions would be based on the supreme rule of “politeness”, bounded by roles and “contractual values”. In the contrasting view (Gemeinschaft ideology), the “who I am” and “who you are” is viewed differently. The quality of the relationship is paramount and submission would be less of a correct metaphor than a kind of natural will. As with power, there remains this positional vs possessional dichotomy. It is this incongruence within the conceptualization and practice of autonomy which creates the further potential for conflict and, for Sergiovanni, is at the root of all school discipline problems.

The problem according to Sergiovanni is that schools are perceived to be more legitimate by the public when appearing rational. The argument is made that schools will always have rational elements and structural management systems. Schools will always departmentalize to some extent, teachers will always supervise, and rules and regulations will continue as a part of

school governance. However, the problem according to these writers is not with rationality per se, but rather its unintentional effects. McKay's (1995) comment is a case in point. He identifies how the advent of gymnasiums in schools (a rational good) has resulted in increased playground violence (an unintended effect). Senge (1990) also speaks to the issue of the complexity inherent in governance. For complex problems like school discipline, Senge suggests that there is only one antidote -- systems thinking. Hargreaves (1989) states that the solution lies in establishing a learning Culture. "Reflective practice", "mental shifting" and "greater collaboration" are the terms touted by these writers as the only effective remedy to complexity. Fullen (1995) states that achieving such practice is challenging and can only be made possible by prefacing attention to peoples' needs, values, and aspirations so as to expose hidden beliefs. Issues and not problems, argues Senge (1990), plague the modern organization. Problems, he articulates, are only the physical manifestation of differences in belief systems.

The nexus of these writers' arguments is one and the same. If, in the administration of schools, merely treating the symptoms of complex problems is to be avoided, participants must be willing to share in a common destiny at a fundamental level. This requires only one kind of authority according to Sergiovanni(1994) -- moral authority. By this he, like many cultural writers, demonstrates that as participants in a common cause, everyone needs to submit to one central idea -- a total commitment to others and the recognition that all are stewards for a common cause. Given the complex issues faced by modern schools, this seems to be the more appropriate authority orientation needed for school discipline practice.

Control and School Discipline

The practices suggested from the proceeding discussion imply that educators need to re-examine their conceptions about control as it relates to the governance of schools. Clearly, in the wake of recurring instances of school violence, there remains in current and mainstream writing a dichotomy of opinion as to the role of control in education generally and school discipline in particular. Certain literature takes a dim view of human nature and speaks to the need for teachers and administrators to be “assertive”, to offer rewards for compliance and the need for manipulation. Found particularly in the publicized disciplinary models, Canter and Canter (1992, p. 7), for example, state “children are not innately motivated to behave....” and there is the call for teachers to “take charge”. Albert (1989), likewise argues that teachers would do well to recognize student misbehaviour as an action rooted in their need for superiority. She recommends a number of techniques to be employed as “powerful manipulators” to ensure compliance. Clearly, control is seen as a necessary means to an end. However, it is not the only means. Glasser (1983) poignantly forces educators to reflect on what history has shown. “For thousands of years we have wrongly concluded that what we do *to* or *for* people can make them behave the way we want even if it does not satisfy them” (p.59).

Other writers suggest that by taking a more positive approach with students, control (identified as self-control) is a natural outcome and a desirable, productive end. This, it is argued, occurs as school members enter into more meaningful relations. There is a substantial amount of research to support such a argument. The studies of DeVries and Zan (1994) and Hyman (1990), for example, confirm that when teachers trust students to make decisions, they

are more likely to act responsibly and continue with the learning process. Perhaps, the most compelling evidence suggesting educators need to question the assumption that students (even very young students) are motivated by self-interest and in need of control is that offered by Zahn-Waxler, Radke-Yarrow and Chapman (1992) and Kilcher (1997). The former writers cite the conclusions of the National Institute of Mental Health and show how very young individuals have a natural predisposition to less control-oriented practices. The report concludes:

Even children as young as 2 years old have (a) the cognitive capacity to interpret the physical and psychological state of others, (b) the emotional capacity to effectively experience the other's state, and (c) the behavioural repertoire that permits the possibility of trying to alleviate discomfort in others.... Young children seem to show patterns of moral internalization that are not simple fear-based or solely responsive to parental commands. Rather, there are signs that children feel responsible (and connected to) others at a very young age (pp. 127, 135).

Kilcher summarized the current and emerging research on successful junior high schools. Having considered adolescent social, emotional, and intellectual needs she states unequivocally:

Early adolescents benefit from a total school program of care and support where all teachers are actively engaged in creating a sense of stability and community that allows students to come to grips with the challenges they face (p. 11).

This research suggests that when students do not act in a manner consistent with their capacities, one might come to a different conclusion concerning their behaviour and the need for control.

“Thoughtless” actions may be just what the word implies: actions attributable to a lack of thought or skill. To reject a sour view of human nature, one predicated on the assumption that people are

inherently selfish or aggressive, is not necessary to assume that evil is illusory and everyone means well. The research clearly shows that humans are as capable of generosity and empathy as they are of looking out for “number one” and as inclined to help as to hurt. At times control may very well be the orientation educators need to take in realigning unacceptable and violent behaviour. On the whole, literature suggests that our orientations be nobler. The more important disciplinary questions requiring solutions are not ‘How can we make students do what we want?’ but more ‘What do students require to flourish?’ and ‘How can we produce these things?’

Critical School Discipline Policy Criteria

An analysis of the preceding discussion suggests that in the formulation of a school discipline policy, the following critical components should be included:

1. Power, authority and control are both rational and relational concepts that impinge on the quality of the human relationship in schools as social settings. If educators desire the kind of power and authority they truly want it must be earned from actions that predicate human dignity.
2. Discipline policy based entirely on the view of schools as formal organizations are insufficient for contemporary school governance. Community-based practices -- practices which give application to the principles of democratic citizenship and make schools a successful place for all - - must exist within and buttress the more rational aspects of school governance.
3. Discipline policy must not be formulated from an orientation of control. Although control may become a necessary means of ensuring greater student safety in violent situations, it should be used sparingly. Control conceived as manipulation, domination or coercion has little long term utility for the educational process in general and student development in particular.
4. Discipline policy must address the needs of students. It must consist of instruments, techniques, and a set of procedures geared to meeting the needs of students and teachers individually and collectively.

5. Policy must be formulated in the community context. If a sense of community is to underpin practice, it becomes important for all participants (students, teachers and parents) to collectively build community by shaping policy based on shared decision making.

Section II

Critical Dimensions of School Discipline Practice II

School Discipline and the Law

School discipline policy, unlike many other policies affecting school operations, pervades much of the day-to-day relations between educators, students and parents, and it must withstand many tests. Unfortunately, throughout the past decade schools have been viewed somewhat skeptically with respect to their ability in meeting the behavioural challenges posed by students. Zuker (1988, p. 68) reports that by the late 80's public perception felt that "there (was) no discipline in schools" and students were "out of control". For these and related factors, reports are that senior teachers are feeling tired and beleaguered, to the detriment of the profession. Part of the problem lies in the confusion as to how the law applies. The law is a complex area and the lack of educator knowledge in the area makes the task of understanding its application to school discipline policy and practice more difficult. Zuker (1988) reports that many teachers in the workforce have relatively little exposure to educational law as part of their formal learning. Snelgrove Warren and (1989) reported similar findings in this Province. In this section of the paper, the writer will contextualize important aspects of law from various provincial and federal statutes, including particular court cases. The objective is to identify where teachers stand with respect to the law and school discipline, given the background of a growing movement in student rights. Legal criteria important in school discipline policy

formulation will be identified from such a delineation.

The Changing Legal Landscape of Teaching

In order to better understand how the legal requirements for disciplinary policy has changed, it is important to appreciate how the legal status of educators has changed over time. Traditionally, teachers have been largely immune from examination under the law and, in fact, teachers took comfort and were granted a great deal of protection under the common law doctrine of *in loco parentis*. Until recently, the extent of an educator's legal knowledge sufficient to carry out the disciplinary function could remain limited to three well understood legal elements. As long as teachers understood that they legally "stood in the place of parents for the purposes of teaching children" and were to exercise a duty of care characteristic of a "reasonable and prudent parent", they acted within the law. Moreover, and perhaps most importantly, when it came time to exercise more overt forms of discipline, provided such action could be shown to be akin to that of a "kind" yet "firm and judicious parent", it was understood that teacher action would be viewed with somewhat special status and upheld by the legal system.

We need not look far, however, to understand why many teachers feel that the ground rules have indeed shifted. Although the one-room schoolhouse and community school boards of the past may have provided a real setting for parents to delegate their authority to teachers, centralization initiated in the 1960's (and continuing today) has increasingly advanced the notion of teachers as state agents. In contemporary times with increased school consolidation, teacher and pupil membership has become far more heterogeneous and complex. Increasingly, specialty services and training are provided in order to meet the challenging needs of students. Given the

structural and organizational complexities associated with such, as well as the level of training and specialty required, parents (despite efforts at greater inclusion) have been pushed to the periphery. As McKay (1995) points out, what were formerly areas of discretion have come to be replaced with a plethora of legislative and regulatory means of directing the educational process. The difference is significant because what was left of traditional authority is being replaced by legal/bureaucratic authority. Hoy and Miskel (1987) clarify what the latter means.

Legal authority is based on enacted laws that can be changed by formally correct procedures. Obedience is not owed to a person or position per se but to the laws that specify to whom and to what extent people owe compliance. Legal authority thus extends only within the scope of the authority vested in the office by law (p. 110).

In a time when teachers and administrators feel uncomfortable and somewhat confused as to how the law applies to their role and ability to discipline students, it is worth analyzing the legal authority vested in educators.

The Legal and Legislative Basis of Teacher and Administrative School Discipline Authority

I) Provincial Legislation

The Schools Act (1997):

The *Schools Act* imposes a variety of obligations on all stakeholders in the schooling and educational process. It gives broad-based directives related to the method of instruction, the obligation of parents and the responsibilities of students. However, a significant portion of this legislation deals with the means by which school officials are to ensure and promote the safety of

schools. In this respect the Act deals with teacher and administrator school discipline authority.

The legal basis of teacher-school discipline authority can be found in sections 33 and 36. The latter is specific and recognizes how a teacher may suspend a student from class and, pursuant to the regulation, report the suspension to the principal before the end of the school day. Section 33 further extends teacher authority beyond the classroom to include all aspects of schooling.

“33(e) (A teacher shall...maintain and supervise) ... order and discipline among the students while they are in the school or on the grounds and while they are attending or participating in activities sponsored or approved by the board.”

In its own right this gives teachers potentially broad discretionary powers. Significantly, other empowering duties not specifically described by the Act are further permitted under subsection 33(g).

“(A teacher shall) carry out those duties that are assigned to the teacher by the principal or the board”.

The implications of this are noteworthy. These statutory provisions provide for a continuum approach within the educational system. It provides for a uniform system of discipline in which all teachers share a common responsibility. Yet, for reasons related to circumstances, professionalism, etc. it can establish the means for specific individuals to have greater responsibilities, subject to principal and board discretion.

Principals also have considerable school discipline authority as provided by the *Schools Act*. Duties similar to that of teachers are outlined in section 24 of the Act.

“ 24 (3) A principal of a school shall, subject to the direction of the board, ...

(e) manage the school;

(f) maintain order and discipline in that school and on the school grounds and at those other activities that are determined by the principal, with the teachers of the school, to be school activities;

...
(n) carry out other duties assigned by the board.

However, other provisions within the Act give principals more specific and additional measures for dealing with school discipline matters. Section 24 (l) gives principals responsibility for establishing and maintaining student records:

“24 (l) (A principal shall) ensure a student record is established and maintained for each student in that school”.

This provision is noteworthy since record documentation is the primary means by which a principal or teacher will bring a claim against a student before a school board, the minister, outside agencies or the judiciary. Very often this relates to issues arising from the need to suspend or expel a student -- provisions afforded only to principals and covered under sections 36 and 37 of the Act, respectively. Section 36(3), for example, specifically states:

“A principal may in accordance with the by-laws of the board suspend a student from
(a) one or more class periods;
(b) one or more courses or school programs;
(c) school

The length of suspensions can vary from a few days to an indefinite period provided justifiable grounds are demonstrated subject to sections 36 (6) and 36 (7) (director and medical requirements). In addition to these direct discretionary powers, principals are further afforded indirect measures of support. Section 25, for example, invests principals with the responsibility of establishing a school council. School council mandates relate to school discipline and include:
1) improving the quality of teaching and learning; 2) advising a board of areas of concern; and,
3) evaluating standards within its school. These mandates provide avenues for councils to

bolster principal and school discipline procedures and further provide mechanisms for in-house, community-based and professional support to ensure that schools are indeed harbingers of safety.

The legal application of such statutory legislation is significant because the *Schools Act* is provincial legislation. Within the legal system, subject to the *BNA Act*, there is the recognition of provincial autonomy in education and any laws in this regard are treated seriously by the judiciary. The *Schools Act* thus clearly establishes the prima facie right of school personnel to take necessary actions (within prescribed limits) to foster schools as safe and positive learning environments.

II) Federal Legislation

School discipline authority is not limited to provincial statutory legislation. Although significant in its own right, certain kinds of student behaviour are so extreme as to be criminal and dealt with by federal statutory provisions. Important legislation in this regard includes the *Young Offenders Act* and the *Criminal Code*. A brief examination of these federal statutes is relevant to understanding how and why such aspects of the law provide educators the authority and measures they need to adequately perform school discipline tasks even in the more extreme forms of dysfunctional student behaviour.

The Young Offenders Act:

First introduced in 1984, the *Young Offenders Act* (Y.O.A.) replaced the *Juvenile Delinquent Act* in all Provinces and Territories of Canada. The act is of particular relevance to teachers and administrators because it applies to individuals between the ages of 12 and 18.

These individuals are most often students of the secondary educational system and represent the most serious challenges to administrative authority.

The policy and philosophy of the Act is clearly established in the Declaration of Principles found in subsection 3(1) of the Y.O.A. The Declaration of Principles is significant because it forms part of the text of the Act and is heavily relied upon in the application of youth justice. For purposes of summary, important elements defining the application of juvenile law, as determined by the Y.O.A. include the recognition that:

1. young persons who commit offences should bear responsibility for their actions although they need not always be held accountable in the same manner as adults [para. 3(1)(a)];
2. society must be protected from the illegal behaviour of young people and reasonable measures must be taken to prevent criminal conduct by young persons [para. 3(1)(b)];
3. young persons who commit offences require supervision, discipline, and control, but they also have special needs and require guidance and assistance (para. [3(1)(c)]);
4. alternative measures to the court process should be considered where not inconsistent with the protection of society [para. 3(1)(d)];
5. parents have responsibility for the care and supervision of their children, and thus, young persons should be dealt with within the family setting wherever appropriate [para. 3(1)(h)]; and,
6. young persons have rights and freedoms in their own right, and young persons should have special guarantees of their rights and freedoms [paras. 3(1)(e), (f), and (g)];

Obviously, an attempt is made within this federal legislation to strike a balance between the needs of troubled youth and the needs of various societal elements (including schools) for adequate protection against potentially heinous offensive behaviours. Notably, the Y.O.A.

provides procedures (not categories of offences) for dealing with youth behaviours. In this regard section 20 is important since it provides the judiciary with the means to make varying dispositions (sentences) in the treatment of a young offenders. A court disposition may include one or more of the following:

- i) payment or compensation in kind to the victim;
- ii) restitution of property;
- iii) community service;
- iv) detention in a hospital or other place for treatment of physical or mental illness;
- v) committal to custody for a period not exceeding 3 years;
- vi) probation (not to exceed more than 2 years); or
- vii) absolute discharge.

For educators, section 20 is particularly important because it further legitimizes and buttresses the administrative authority afforded to principals as set out in provincial *Schools Act* legislation (or equivalent). In instances where a principal (in his/her discretion) comes to the conclusion that despite a school's best attempt at resolving dysfunctional behaviour or for crimes requiring expedient action, such law provides the means for judicial support. For extreme behaviour, extreme legal means are available to administrators in seeking resolution. In so doing the law thus provides principals the double advantage of dealing effectively with the most recalcitrant student behaviour (i.e. institutional authority) while also permitting them to operate from a position of moral authority (the means to seek enforceable treatment). Both of these aspects of administrative authority have been identified within the educational literature as important to effective school discipline and in this respect the law is in keeping with and supportive of school discipline practice.

The Criminal Code:

The *Young Offenders Act* implicitly recognizes that schools can become potentially violent places where special measures are sometimes needed in support of these facilities.

Related to facility support is the use of force by educators. Although much has been made of the use of force, even in this direct dimension of school discipline practice, provisions exist which recognize teacher and administrator authority.

The use of force as it pertains to assault (i.e common assault) is covered under section 265 of the *Criminal Code*.

265. (1) a person commits an assault when:

- (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe upon reasonable ground that he has, present ability to effect his purpose; or,
- (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

(2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

(3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of :

- (a) the application of force to the complainant or to a person other than the complainant;
- (b) threats or fear of the application of force to the complainant or to a person other than the complainant;
- (c) fraud; or,
- (d) the exercise of authority.

Given the general parameters for common assault identified above, it is understandable that teachers and principals may hesitate to act in a direct way to correct students for fear of an assault charge being laid. This, however, remains both an attenuate and impractical position.

Hancock (1998) articulates the complex nature by which force need apply to the educational setting.

What should a teacher do if a student insists upon continuing to be loudly disruptive in class, destroying the order of the classroom and simply refuses to be subject to the discipline of the classroom? Should the teacher direct the child to leave the classroom and go to the principal? What if that child refuses and continues to engage in behaviour that is disruptive, mocking the teacher, cursing at the teacher, etcetera? Perhaps we should suggest that the teacher call the principal. What if the child engages in the same behaviour toward the principal? Who, if anyone, would ultimately have any authority to remove that child..... Should we insist that the police be called in every such situation in order to avoid the possibility of criminal charges against the teacher or the principal? Such are the situations in which teachers and administrators can find themselves.... (p. 17).

It is perhaps in recognition of the complex nature of teaching that aspects of the code clearly articulate, why force, subject to specific criteria, is acceptable and may not constitute assault. Subsection 1, for example, identifies that force by itself is not necessarily assault as both attempt and threat are included in the definition. This would cover many practices in schooling especially as it relates to the teacher relation with younger students where physical intervention -- be it a restraining hand - - becomes necessary. Furthermore, in more direct contacts, for reasons of necessity a defence can be made pursuant to section 8 of the Code.

- 8.(3) Every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of proceedings for an offence under this Act ...**

Related to section 8 are other sections which may apply as a defence to assault. Defences are possible under sections 34 - 41 and include:

- section 34 - self defence against unprovoked assault
- section 35 - self defence in case of aggression
- section 37 - using force to prevent assault
- section 38 - defence of personal property; and,
- section 40 - defence of dwelling

Irrespective of these specific defences, there remains the more general and encompassing defence available only to teachers (or principals) - section 43:

Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction towards a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

This provision is often associated with the use of corporal punishment, an action now strictly forbidden in all provinces, including Newfoundland. As Hancock (1998) espouses, the fact that this section remains, suggests that the judiciary continues to recognize that instances arise in the student-teacher relation which may not be covered in specific sections of the Criminal Code.

This is significant because, although section 43 cannot provide an absolute defence to teachers (force must be shown to be reasonable, justifiable and by way of correction), it allows the courts to perform their traditional roles of interpreters, arbiters and protectors in education. Through the various provisions identified above, it is clear that there remains considerable legislative authority in support of even the least desirable school discipline tasks that educators must sometimes perform.

School Discipline in the Context of Student Rights

Although the legislative basis of teacher authority can be well established, it occurs in a context supportive of student rights. To understand the extent to which student rights impinge on school discipline policy and practices, it is worth briefly examining important legislation (international, national and provincial) as well as comments of educators in this province.

I) International Legislation

The United Nations Convention on the Rights of the Child:

The *United Nations Convention on the Rights of the Child* is exemplary of one piece of international legislation which clearly articulates this international body's position with respect to children and the degree of support to which child/student rights are enshrined in international law. The preamble to the convention clearly enunciates the latter point.

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva *Declaration of the Rights of the Child* of 1924 and the *Declaration of the Rights of the Child* adopted by the General Assembly on 20 November 1959 and recognized in the *Universal Declaration of Human Rights*, in the *International Covenant on Civil Rights* (in particular in articles 23 and 24), in the *International Covenant on Economic, Social and Cultural Rights* (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organization concerned with the welfare of children.... have agreed as follows....

Important aspects of the convention include the recognition that: 1) children need to be viewed with special status because of their vulnerability, 2) children have the same rights as adults -

some absolute and some acquired with age, 3) a triangular relation among the child, parent and government support is essential to the development of all children. In respect to the latter, article 3 specifically states:

In all action concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authority or legislative bodies, the best interest of the child shall be of primary consideration.

Significantly, this article sets moral obligations on member civic institutions (i.e. schools) to work toward such ends. It further provides the means for lobby groups to pressure member governments (like Canada) to enact legislation aimed at promoting the rights and privileges of children and students. This seems to be the experience within Canada as relatively recent provisions within educationally relevant federal and provincial legislation have given children substantive and procedural rights as never before.

II) Federal Legislation

The Charter of Rights and Freedoms:

In 1982 the *Canadian Charter of Rights and Freedoms* (heretofore called the *Charter*) was enacted as part of the *Constitution Act*. The rights contained therein are very important because as Mackay (1994) identifies, constitutional law is superior to all other forms of federal or provincial statutory law. This makes any decision made under the *Charter* binding in every province and Territory. In a very real sense, jurisprudence can decide whether any school discipline policy or procedure in any part of the country is consistent with rights potentially afforded by the *Charter*. So intrusive is the *Charter* that there have been calls within the

educational community to “Charter proof” all policy (Harte & McDonald, 1994). Given the legal rights contained in this document, Harte & McDonald’s comment is especially relevant to any school discipline policy analysis.

The legal rights provided by the *Charter* are contained in sections 7 - 14 and read in their entirety as follows:

7. Everyone has the right to life, liberty and security of person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
8. Everyone has the right to be secure against unreasonable search or seizure.
9. Everyone has the right not to be arbitrarily imprisoned.
10. Everyone has the right on arrest or detention:
 - (a) to be informed promptly of the reason therefore;
 - (b) to retain and instruct counsel without delay and to be informed of that right; and,
 - (c) to have the validity of the detention determined by way of *habeas corpus* and to be released if the detention is not lawful.
11. Any person charged with an offence has the right
 - (a) to be informed without unreasonable delay of the specific offence;
 - (b) to be tried within a reasonable time;
 - (c) not to be compelled to be a witness in proceedings against that person in respect of the offence;
 - (d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
 - (e) not to be denied reasonable bail without just cause;
 - (f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;
 - (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;
 - h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and,
 - (I) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.

12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.
13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.
14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Essentially these rights address issues pertaining to life, liberty and security of persons and deal with search and seizure, detention, criminal proceeding, and self-incrimination. These are all matters which potentially apply to school discipline actions and the treatment of students. As identified earlier, students are quite capable of committing criminal acts in schools and charter rights are increasingly being used to address questions in school law cases (Black-Branch, 1994). Clearly, school principals are compelled to maintain safe, secure school environments under statutory duty to administer discipline but in ways cognizant of *Charter* implications.

The Young Offenders Act:

The *Young Offenders Act* (Y.O.A.) unlike the *Charter* is more specific with respect to the treatment of criminal youth. As noted earlier there is considerable leverage in its provision for principals to deal effectively with even the most violent youth. However, the legislation equally balances this authority by recognizing the inherent rights of criminal youth. Relevant sections in legislation as found in section 3 include:

“3.(1)(c) young persons who commit offences require supervision... but, because of their state of dependency and level of development and maturity, they also have special needs and require guidance and assistance”;

“3.(1)(d) where it is not inconsistent with the protection of society, taking no measure or taking measure or taking measure other than judicial proceeding under this Act should be considered for dealing with young persons....”;

“3.(1)(e) young persons have rights and freedoms in their own right, including those stated in the *Canadian Charter of Rights and Freedoms* or in the *Canadian Bill of Rights*, and in particular a right to be heard in the course of, and to participate in, the processes that lead to decisions that affect them, and young persons should have special guarantees of their rights and freedoms”;

“3.1(f) in the application of this Act, the rights and freedoms of young persons including a right to the least possible interference...”; and,

“3.1(g) young persons have the right, in every instance where they have rights or freedoms that may be affected by this Act to be informed as to what those rights and freedoms are”.

Consistent with the spirit of constitutional legislation (i.e. the *Charter*) and the aforementioned international legislation, the Y.O.A. recognizes that:

- i) violent youth are not in all instances as accountable as adults. Because of their state of dependency and maturity, criminal youth have special needs;
- ii) all young persons have rights and freedoms just as all Canadians do (as identified by the *Charter*); and,
- iii) young persons have legal safeguards of their rights and freedoms.

It serves as powerful reminder to anyone dealing with criminal student behaviour that careful attention to due process procedures is imperative in any response by school personnel.

III) Provincial Legislation

The Schools Act (1997):

On December 16, 1996 the Newfoundland Government made revisions with respect to

practices school personnel must follow in school discipline matters. The revisions are noteworthy because they give further impetus and recognition of the need to treat students similar to adults in school matters which can affect them.

Gallant (1997) points out that prior to 1996, a parent of a student was restricted to appealing only expulsion matters before a board of the province. This has been changed as identified by section 22(1) of the current *Schools Act* (1997).

Where a decision affects a student, the parent of the student, or the student, if the student is 19 years of age or older, may appeal the decision

(a) of a board employee employed in the school, to the principal and his or her decision may be appealed to the board;

(b) of the principal to the board; and

(c) of a board's employee not employed in the school, to the board, and the board's decision on the appeal shall be final.

The legislation clearly points out that, for the first time, a student or parent acting on a student's behalf, has the ability to challenge any school discipline procedure(s) or decision(s) before a board. It puts responsibility squarely on school personnel to act in a professional manner, mindful of specific circumstances, a student's age and other mitigating factors affecting behaviour -- rights inherently guaranteed by superordinate legislation (i.e the *Charter*).

Irrespective of the general right to question institutional authority of school personnel, it occurs under definable time limitations. Section 22(2) states:

An appeal under subsection 22(1) shall be commenced within 15 days from the date that the parent or student is informed of the decision.

The latter part of this subsection identifies an important due process right afforded students- - the right to be informed. This right is accentuated under procedures dealing with suspension and expulsion as covered by sections 36 and 37. Subsection 36(8) points out that when a principal suspends a student, “the principal shall immediately”:

- (a) inform the student’s parent of that suspension;
- (b) report in writing to the student’s parent and to the student all the circumstances respecting the suspension; and,
- (c) report in writing to the director all the circumstances respecting the suspension.

Augmenting subsection 8 provisions, directors (under subsection 9) are to:

- (a) uphold the suspension; or
- (b) alter the terms of the suspension; or,
- (c) cancel the suspension.

Such measures not only inform students, it ensures greater impartiality.

For the more serious cases of school discipline (instances potentially leading to expulsion), strict due process procedures must be demonstrated by schools and their personnel.

Section 37, identify expulsion procedures similar to that provided for suspension. Namely,

“37. (1) Where a student is persistently disobedient or defiant or conducts himself or herself in a manner that is likely to injuriously affect the proper conduct of the school, the principal shall

- (a) warn the student and record the date of and reason for the warning;
- (b) notify the student’s parent, in writing, that the student has been warned;
- (c) send a copy of the notice referred to in paragraph (b) to the director.”

Noteworthy, the duty to inform is extended in expulsion-orientated proceedings pursuant to subsections 37(1)(d) and 37(2). These provisions identify how, in addition to written

requirements, a principal must “*discuss* with a student’s parent the circumstances giving cause for the warning”. Only “after a reasonable period and *consultation*” can a principal make an expulsion recommendation to a director. Furthermore, expulsion decision-making power is no longer vested in a single individual. A student (or parent acting on the student’s behalf) can request a review of an unfavourable expulsion ruling and, pursuant to 39(2), the board is obligated to establish a three member review panel to make a binding ruling.

The intent of the foregoing statutory procedures clearly delineates how schools must adhere to due process rights. From the student perspective, school personnel must perform their school discipline tasks in manners consistent with the laws of natural justice. Students, as never before, have guaranteed rights under provincial *Schools Act* legislation to: 1) be informed 2) be provided an opportunity to be heard; 3) have the right to council (in making a defence); and, 4) have the case (or incident) heard by an impartial, judicious process.

Provincial Research Findings

The foregoing demonstrates, how in various areas of law, the human rights movement has come a long way in giving students privileges formally provided only to adults. However, qualitative research in a very practical sense gives perhaps the greatest insight into just how far student rights have become an issue in this province’s schools with implications for school discipline. The information in this regard is sparse but Gallant (1997) recently investigated due process rights in one Newfoundland school district. The comments educators and administrators make is particularly informative. One principal in the study states:

You cannot grab a youngster by the hair of the head

and stuff like that. See, that was never acceptable. but you could get away with it. It was done and we looked like good disciplinarians. That was discipline for discipline sake...It was never acceptable. It is less acceptable in today's society.... (p. 82).

The comment suggests that, perhaps because of past indiscretions, parents demand fair and more humane treatment of students. One vice principal further articulates just how sensitive parents can be in any discipline approach.

We've had a couple of instances this year where parents in effect have issued warnings we'd better not threaten or touch so and so. I'm not sure how much was actually to it, if it actually went as far as the parent tried to make us believe it went. We did have one incident where a parent was threatening court action.... That particular parent did threaten ... that if ever a teacher in anyway touched or improperly treated his young fellow, they would be immediately taken to court (Gallant, 1997, p.84).

The comment reflects a recurring theme in education -- a change in parent attitudes toward the school administrative personnel and their willingness to use litigation in asserting student rights. Gallant attributes such public reaction to a heightened awareness of *Charter* rights, board by-laws and basic human rights. She also contributes increased media coverage to a heightened awareness of student issues (including their rights).

Parents in the study also showed particular sensitivity to due process procedures. Quoting the district's Superintendent, Gallant states, "some people go to great lengths to ensure that their demands for due process are met"(p. 83). The Superintendent described an incident where he was in the middle of a meeting at the District School Board Office when a car pulled up and an irate parent stormed into the meeting room. The unapologetic parent, holding the Superintendent

to task, demanded to know why his child had been questioned by police in the school without his prior knowledge. The district apparently had a by-law stating that students were not to be questioned by police officers during school hours, without parental or guardian consent. This incident points to the need for school administrators, to clearly understand and work within a board's governance structure.

Although this is only one study of a Newfoundland school setting, it clearly indicates that school discipline in all its various forms is a complex task marred, by subtle if not overt threats. The educational landscape has indeed changed. Parents and the public express a strong desire for students (as future citizens) to be treated in manners consistent with their conceptions of fairness.

Case Law and School Discipline Implications

The rights afforded teachers, administrators and students are obviously very important to the legal context of school discipline practices. Case law, however, becomes important in aiding the understanding of how the judiciary interprets and balances these sometimes competing rights. Case law is undoubtedly a broad area within the judiciary. Although not thorough, the following cases provide valuable insight into identifying critical components of "good" disciplinary practice.

Case #1: Search and Seizure (R. v. M.R.M., 1997, cited in Doctor and Kennedy, 1997)

Synopsis:

A vice-principal had been informed by a number of students that a certain student in the

school was in possession of drugs over a three week period. He was informed that a particular thirteen-year-old student was selling drugs and would be “carrying” at an upcoming school dance. In response to this information the vice-principal asked the alleged student and a friend to come to his office on the night of the dance. The office door was closed and the students were seated across the desk from the vice-principal. Both students were asked whether they possessed drugs. The vice-principal advised the students that he was going to search them, at which point the door opened and an R.C.M.P. officer entered the room. The officer was called by the vice-principal prior to the meeting. The officer identified himself, showed his credentials and sat down at the edge of the desk.

The vice-principal had each student turn their pockets inside out as well as had each individual raise their pant legs. The vice-principal removed a bag of what turned out to be marijuana from the accused socks. After being handed the bag and its contents, the officer advised the student that he was under arrest and had a legal right to counsel. An unsuccessful attempt was made by the accused student to call his mother. The student companion was released as no incriminating evidence was found. The accused was charged with possession of narcotics for the purposes of trafficking.

The outcome:

This case was initially tried by a youth court judge and later appealed. Both the youth court judge and justice of the Court of Appeal assumed that the *Charter* applied since public schools exercised a government function under statutory legislation. Sections 8 and 10 of the Charter were raised. These provisions respectively guarantee the right to be secure against

unreasonable search and seizure and the right to be informed and retain counsel upon arrest.

In the initial trial, the judge ruled in favour of the accused. It was the court's opinion that the evidence collected was inadmissible and to consider it would put justice in disrepute. The following reasons were given:

1. The accused was being detained. The judge expressed the view that if the accused was not in detention when he was brought into the office, there was no doubt that he was under detention once the officer arrived. The accused, in the courts analysis, had no other choice but to submit to the search.
2. Accordingly, he was entitled to know his rights and potential consequences of the search as provided under the *Charter*.
3. The vice-principal acted in the capacity of a state agent. There was an agreed strategy that the principal would conduct the search and if successful the officer would lay criminal charges. For the purposes of the *Young Offenders Act*, the vice-principal acted as a "person in authority" in aid of a criminal investigation.

A dissenting opinion was held on appeal. The court ruled that the privacy provided under section 8 had to be interpreted in the totality of the circumstances. Applying the same reasoning as that of an earlier Supreme Court ruling [R. v. J.M.G.(1986)], the court ruled in favour of the admissibility of the evidence. Reasons given include:

1. The search was justified at its inception -- the vice-principal relied on several sources of information including students who admitted being present when trafficking occurred.
2. The search was reasonably related to the scope and circumstance which justified the interference. Given the location and manner of the search, the age and sex of the offender and the administrative power for order and discipline as provided by the *Education Act*, the court held the search reasonable.

Analysis:

This recent case demonstrates the fine line administrators tread with respect to ensuring school order on the one hand, and acting in ways conducive to the legal rights of students when

bringing a case against them. The court recognized the Supreme Court reasoning of the R. v. J.M.G. case which opined that students are under a form of detention at all times while attending school. The judiciary acknowledged the importance of school personnel making rules and implementing actions aimed toward the greater utility of schooling including the importance of students submitting to investigative procedures. However, as the case shows, actions must proceed with minimal intrusiveness and be shown reasonable under the circumstances. The divergence of opinion shown by the two courts was based on whether the officer so coloured the search as to render it a police criminal investigation rather than a search for the purpose of enforcing school rules. For the courts this is an important distinction and, in addition to demonstrating the need for due process, it identifies the need for school discipline policy to clearly articulate rules with respect to appropriate student behaviour, the use of school property and how students can expect to be treated in investigations of a potentially criminal nature. Policy is bolstered by clearly articulated rules and this remains true in order to avoid a close scrutiny by the courts. The reason lies in the application of “reasonableness” (i.e. rational belief) standards made available to principals under such circumstances, as opposed to the tougher “balance of probabilities” standards (normally afforded police officers) where rules fail to exist.

Case # 2: Use of force (R. v. Collins, 1996)

Synopsis:

A nine-year -old student was intelligent and articulate but prone to “snaps” and extremely violent behaviour. While in this state, he was sometimes unable to hear or respond to anyone attempting to prevent him from harming himself or others. The student was deemed unable to

function in a regular class and was assigned to a teacher having experience in dealing with behavioural adaptation. On the day in question, the student was disciplined for not having written an apology to a bus driver for an earlier incident. During the noon recess he was involved in a fight with another student. When the teacher attempted to work through the incident as part of the instructional process for the whole class, the student began to act out and was sent to a time-out area where he continued to act violently, both physically and verbally. He was put into a wrist restraint and brought to the school aide's desk where the teacher forced him to sit down by applying a downward push with application of a "prompt"—a squeezing of the teacher's fingers on pressure points between the neck and shoulders. The incident culminated with the student and teacher falling to the floor where the teacher again applied a wrist restraint to control the screaming, swearing, and thrashing of the student. The student suffered a broken wrist and the teacher who had a long history of working with hard-to-manage children was charged with assault causing bodily harm.

The Outcome:

The teacher raised the section 43 defence under the *Criminal Code*. The court distinguished between the lesser degree of force permissible under section 43 (for the purpose of discipline) and the greater degree of force that may be necessary for controlling behaviour. The teacher was acquitted of the charge.

Analysis:

This case is significant because it shows how teachers work within clearly defined limits, and when they potentially exceed the bounds of their authority they will be held accountable.

The success of the accused was based on the ability to demonstrate to the court the history and nature of the student as well as the contextual use of force. The council for the defence was able to meet requirements for the justifiable use of force. With respect to this instance, 1) the pupil was “under the care of” the teacher; 2) the force was by way of correction (i.e. to prevent and control potentially violent behaviour); 3) the force was shown justified (given the circumstances); and 4) the force was not excessive (i.e. a conventional procedure was used). However, the case is instructive and extends beyond the specific facts. It significantly demonstrates the importance of documentation in accurately and objectively profiling a student’s behaviour. It is imperative that school discipline instruments and procedures be capable of objectively achieving such ends.

Case # 3: Negligence (Thompson v. Seattle School District No. 1, cited in Zuker, 1988)

Synopsis:

Thompson was a fifteen-year-old fullback who played for his high school varsity football team. After catching a pass during an inter-school game, Thompson ran toward the sidelines and lowered his head to run a tackler. As a consequence of running through the tackler, Thompson severed his spinal cord and instantly became a quadriplegic. The evidence presented to the court showed that the coach did not instruct students on what to do when approaching tacklers despite specific written objectives to the contrary by the athletic national body (i.e. National Federation of State High Schools Athletic Association).

The Outcome:

Thompson was awarded \$6.4 million in damages. The board later settled during an appeal process for \$4 million.

Analysis:

This case is insightful because it demonstrates that where teachers are potentially negligent in their supervisory capacities, liability extends beyond the individual to include the employer. From an administrative perspective, it becomes essential that school discipline procedures remain internally consistent with applicable board by-laws. The alternative to what the judiciary considers vicarious liability would be to weaken policy and any likelihood of success in potential legal challenges.

Legal Issues and School Discipline in Perspective

A considerable amount of discussion has focused on the legal rights of teachers and students as it relates to school discipline. What becomes clear from the foregoing is that the rights of school personnel to establish order and security in school is as well recognized as the right of students to fair, equitable treatment consistent with the privileges afforded in natural justice. It illustrates a salient but often ignored aspect of law - - rights afforded to any group or individual are never absolute and it is the interpretative task of the judiciary to decide in specific cases where fault (liability), if any, lies. The lack of uniformity evident in some of the court rulings helps explain the complexity of school discipline as well as the confusion and frustration felt by teachers and administrators in looking to the law for guidance. Despite this dilemma

there are a number of fundamental ideas educators need to keep in mind with respect to the law as it applies to this aspect of schooling. First, the law is on educators' side. Many landmark cases have established legal precedent in support of the right and duty of school personnel to make rules and policy decision covering all aspects of safety. Secondly, educators need to remain cognizant of the fact that no amount of rules or school discipline policy protocol, however rational, will stop parents from holding educators accountable. There will always be the potential for legal challenges and educators must prepare themselves for such as part-and-parcel of the profession and a reality not unique to education. Thirdly, (and with respect to the latter point), if the problem is to be solved, educators must make themselves knowledgeable in the various sources of law, discuss implications and work with community stakeholders (especially parents) in formulating school discipline policies and procedures consistent with legal and community expectations. Through such an approach all sides will become more knowledgeable, complex issues discussed, and practices developed to put educators in more effective positions when dealing with inappropriate student behaviour and concerns expressed by vocal members of the public.

Critical Legal Components of School Discipline Policy

A synthesis of legal aspects with respect to administrative authority and students' rights would suggest the following as critical legal components to school discipline policy:

1. School discipline policy must incorporate procedures aimed at being pro-active and preventative.
2. Due process procedures must be demonstrated in all aspects of school discipline procedures.

3. School discipline instruments and procedures must work within a system that accurately profiles the history of a student's inappropriate behaviour.
4. School discipline policy requires clearly articulate and identifiable procedures for responding to criminal student behaviour.
5. School discipline must work within and be consistent with district discipline by-laws.

In retrospect it becomes apparent that the legal criteria for "good" school discipline policy mimics what the educational community identifies as crucial to such. The law essentially requires that students be treated with respect of their rights as maturing individuals; that instruments, techniques, rules and procedures meet (and be shown to meet) the needs of students and personnel. Any direct measures taken by educators must be shown to be appropriate to the best interests of students. Clearly, important school discipline criteria remains quintessentially those aimed at prevention and this should be the contextual focus in any evaluation of a school's discipline policy.

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Paper Portfolio Three

Evaluation of the John Christian Erhardt Memorial Discipline Policy

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The Social and Cultural Context of the JCEM School and Discipline Policy

John Christian Erhardt Memorial (JCEM) is an all-grade school located on the northern coast of Labrador. It serves an isolated population of nearly 400 people, of which approximately 10% are Inuit and a larger (80%) are “settler” majority of mixed ancestry. During the past 20 years there has been an increase in non-aboriginal community membership for reasons related to intermarriage, permanence in school staffing, and community service employment. As an isolated community and one located within the Labrador Inuit Association (LIA) Land Claims area, there exists a relatively large number of services, other than school, in support of a municipality poised for eventual self governance. Community services include Labrador Inuit Services (i.e. field workers promoting cultural living, enhancing care for the elderly, etc.), Social Services, and Medical Outpost Nursing. The community has a local hospital, a fire fighting detachment, a part-time police detachment, a radio station, and various municipal office workers including a Recreation Director. Recently, with increased levels of training and the movement toward self government, there has been a tendency toward filling public service positions with Labrador Inuit membership.

In many respects, traditional values and northern lifestyles remain much in evidence. Boating and snowmobiling are the principle means of transportation for many people. Hunting and resource based activities are valued and such activities continue to augment incomes and livelihoods. Fishing continues to be the main means of income for individuals not employed in public service positions. Recently, with the collapse of the cod and salmon fisheries, an increased emphasis has been placed on the trawler and deep-sea fisheries. Unlike many areas of the province, these are stable fisheries and people continue to enjoy a comfortable but modest living from these activities.

The school has always enjoyed good relations with the community. This close association has been brought about through the long-held practice of using coastal schools as

community and social facilities. This has not changed. The recreation director, functioning in a school-community liaison capacity, develops ongoing recreational programs available to all community age groups. Programming is administered through the school's gymnasium facilities and significantly extends the school's role as community agent. Unlike many schools, JCEM remains open to the public until 10 p.m. nightly, serving the educational, recreational and social needs of the community .

The school is an all-grade facility with teacher personnel having specific educational and subject specialities. The school staff (consisting of 12 teachers - 1 administrative teacher, 8 full time teachers, 2 part-time teachers, and one native educator) have teacher training in primary, elementary, junior and senior high school education. With respect to the latter, high school personnel have further subject specialization including Mathematics, Science, English and French. Collectively, all school teachers provide a variety of programs geared to meeting the educational needs of the 110 student-member population. The school offers provincially prescribed curricula at all levels and by high school, students enter a variety of credited courses toward their requirements for graduation. In addition to "regular" educational programming, the "special education" teacher works with classroom teachers in meeting the needs of students having learning difficulties. Accelerated and advance courses in Mathematics are taught at the school, and Distance Education further supplements the schools programs in Science and French education.

Beyond catering to the intellectual demands of students, the school provides a variety of extra-curricula activities geared toward greater student inclusion, participation and personal growth. Throughout the year students are encouraged to participate in a number of annual events ranging from individual contests to group activities and include Provincial and Canada-wide math challenges, scholarship examinations, drama festivals, school varsity events, girl guide activities, music festivals, science fairs and science olympics. These activities challenge students,

foster interpersonal skills, and advance school discipline objectives. The school has a policy that only students demonstrating “good” character behaviour are eligible to represent the school in regional, provincial or other events external to the school.

Reflecting northern values, Inuktitut and other local programs supplement government prescribed curriculum. The Inuktitut program of studies, emphasizing Inuktitut writing, speaking and culture is a regular part of the school program for all K- 9 students. In addition, there are a variety of traditional 2 hour programs (lasting approximately 6 weeks) in stone and wood carving, clothing making and “life skills”. These traditional programs serve many mandates. They extend the art of teaching to talented community members, promote resource-based skill development, add variety to standard school programming, and enhance school discipline outcomes by promoting pro-social, cooperative behaviour among students.

The JCEM Discipline Policy Formulation Process

In November, 1993, completions were made to a new school and students and teaching staff took occupancy of the building at this time. It was quickly felt that the school, being a much different facility than its former counterpart, required somewhat of a different approach in management. In January 1994, at the request of the principal, a discipline committee consisting of teachers from primary, elementary and secondary divisions of the school was struck to review and recommend changes to former disciplinary procedures. Under the previous system, informal procedures characterized the approach and there was the recognition that this should change.

Being a new initiative, it was felt that an important first step was to research the practices deployed by other schools and review relevant literature to support the process. Discipline

policies from selected schools throughout the district were examined, and literature was analyzed biweekly by a group of teachers representing primary, elementary and senior levels of the school. Based on the information gathered and after much discussion and debate, a draft policy was presented to the principal in April, 1994. During the remaining months, the draft policy and its contents were discussed with parents and students. Based on input from these stakeholders, revisions were made to the document. During a fall assembly of the 1994-95 school year, the policy was further discussed with students, change of procedures identified, issues clarified and the announcement made that the policy would take effect in October. During the ensuing weeks teachers further discussed the new school discipline policy and its contents with their home-rooms. On October 01, 1994, the new school discipline policy went into effect.

Critical School Discipline Criteria: A review and synopsis.

In a previous paper criteria important for analyzing and evaluating school discipline policy were identified as follows:

1. Power, authority and control are both rational and relational concepts that impinge on the quality of the human relationship in schools as social settings. If educators desire the kind of power and authority they truly want, it must be earned from actions that predicate human dignity.
2. Discipline policy based entirely on the view of schools as formal organizations are insufficient for contemporary school governance. Community-based practices -- practices which give application to the principles of democratic citizenship and make schools a successful place for all - - must exist within and buttress the more rational aspects of school governance.
3. Discipline policy must not be formulated from an orientation of control. Although control may become a necessary means of ensuring greater student safety in violent situations, it should be used sparingly. Control conceived as manipulation, domination or coercion has little long term utility for the educational process in general and student development in particular.

4. Discipline policy must address the needs of students. It must consist of instruments, techniques, and a set of procedures geared to meeting the needs of students and teachers, individually and collectively.
5. Policy must be formulated in the community context. If a sense of community is to underpin practice, it becomes important for all participants (students, teachers and parents) to collectively build community by shaping policy based on shared decision making.

Legal considerations and their impact on a school's discipline policy were further considered and articulate the need for the following:

6. School discipline policy must incorporate rules aimed at being pro-active and preventative.
7. Due process procedures must be demonstrated in all aspects of school discipline procedures.
8. School discipline instruments and procedures must work within a system that accurately profiles the history of a student's inappropriate behaviour.
9. School discipline policy requires clearly articulate and identifiable procedures for responding to criminal student behaviour.
10. School discipline must work within and be consistent with district discipline by-laws.

These criteria will form the basis for evaluating the JCEM Discipline Policy.

The Application of Critical Discipline Criteria to the JCEM Discipline Policy

The Power and Authority Orientation in the JCEM Discipline Policy

In a preceding paper, power and authority were identified as the indivisible forces which shape attitudes and behaviour in people causing schools to flourish or, alternatively, leading to their demise. The literature accounts for this dichotomy by identifying the positional(institutional) vs. possessional (relational) polarity inherent in each of these forces

which must be effectively balanced if schools are to reach their goals. In particular, the literature indicates why schools can never reach their full potential through practices favouring one orientation at the exclusion of another. Schools are places having inherent bureaucracy but it is equally important they be fulfilling places capable of capturing the natural will and synergy of their membership to effectively deal with complex issues such as discipline. Discipline policy at JCEM must operate within a realistic paradigm, one capable of allowing power and authority structures to act bottom up as well as top down.

The JCEM Discipline Policy is a document aimed at procuring the smooth operations of the school given its situational reality. It identifies student and staff expectations in various areas of discipline, outlining responsibilities, procedures and protocols to be followed in effectively dealing with discipline issues. Beyond the rules and procedures, the policy works from a particular power and authority perspective and, consistent with prescribed practice, the JCEM Discipline Policy recognizes the importance of power and authority dissemination. Undergirding the policy is the assumption that power best operates at the grass roots level and is best derived from relational aspects of teaching. Many resources can be brought to bear in resolving conflict at JCEM but primacy is given to human dimensions and their importance in resolving behavioural challenges. The policy identifies how students are assigned advisors and outlines how an advisor may be called upon to help resolve conflict or liaise with other actors (i.e. students, administration, social worker, etc.) in any mediation process. There is the acknowledgement that many individuals have a significant role to play in shaping productive student behaviours and students flourish best from such a commitment to a common cause. The JCEM Discipline Policy, shaped and developed on the identifiable needs of the school

community (student, teachers, administration and parents), give personnel at JCEM the important moral authority necessary to respond to its discipline challenges.

Democratic Principles and Shared Decision Making

As noted earlier, the theoretical discussions of recent mainstream writers with respect to school governance (Sergiovanni,1994; Senge,1990) articulate how particular attention must be paid to the nonrational dimensions of policy formulation (i.e. the process) if rational outcomes (i.e. the rules) are to take effect as a kind of “natural will”. The nexus of these writers’ arguments is that the views of all stakeholders affected by policy should be accommodated and reflected in the formulation thereof if the policy is to become a “living document”.

The methods used in achieving current JCEM school discipline policy approaches that described as important in mainstream writing. As suggested earlier, devolution of the school’s discipline policy was based on an identification of its unique needs. The process was characterized by information gathering and considerable debate by teachers representing all levels within the school. Following drafting, the policy was subjected to a three month review and, based on suggestions given, further revisions resulted in the final and current form of the document. Such are the hallmarks of democratic principles and governance.

Notably absent from the initial formulation process, however, was the direct input of students and parents because the committee structure lacked their membership. This is particularly troublesome because, despite the best efforts of committee members, any post analysis given to the document, was founded on a kind of “logical will” and lacking the deep but important sense of ownership critical to discipline policy becoming part of a school’s

constitution. In effect, the process described here gave the policy a kind of external validity only.

This identifies an important area of redress when making further changes to current policy:

Recommendation #1: Decisions respecting alteration of current policy must occur with adequate school and community stakeholders at all levels of the process.

Control Orientation in the JCEM Discipline Policy

The JCEM Discipline Policy, in keeping with prescribed practice, advocates a self-control orientation to student management. Like many school discipline policies, the JCEM Discipline Policy outlines an acceptable code of student conduct, suggests consequences for inappropriate behaviour, and mandates specific teacher responsibilities for ensuring prosocial and prolearning student conduct at the school. Notably, the teacher role is given special significance under the policy. Student self-control is promoted by placing particular emphasis on the consultative and facilitative role of teachers in mediating student behavioural problems. Teachers are provided the flexibility and capacity to work in cooperation and consultation with outside expertise in ascertaining psychological influences, learning disabilities and/or external factors potentially impinging on student behaviour(s) and important to conflict resolution. Control under the policy is not limited to instigating a number of punitive measures, and the objective and orientation appears more educational than coercive. This is in keeping with contemporary ideology promoting school discipline as an element of student services and supportive of individual and local efforts.

Although the practices prescribed under the policy appear educational and promoting a student assistance orientation, the lack of clear statements with respect to actual purpose(s) and

objectives served by the school discipline policy indicates a clear limitation of the document. Founding principles of approach need to be clearly delineated as they provide important benchmarks for guiding, judging and clarifying the utility of all school discipline activity.

Recommendation #2: The JCEM Discipline Policy should contain a statement of philosophy.

Meeting Student Needs in the Context of the JCEM Discipline Policy

Addressing the myriad of variables impacting on student behavioural outcomes and bringing these variables into a workable discipline policy is undoubtedly complex. School discipline writers indicate that effective school discipline and school discipline policy are fundamentally about creating site-based opportunities which encourage a culture of positive, pro-social interaction and creating strategies for successful conflict resolution. Within this prescription there is the inherent assumption that if schools are to be successful in guiding and shaping student behaviour, policy must be effective in addressing diverse student needs, including needs relating to education, background, autonomy, identity, self expression, fair treatment and other dimensions of schooling. A synthesis of their thinking suggests answers to the following questions:

- 1) How does discipline policy address the economic, academic, cultural and other variables known to disadvantage students and contribute to antisocial/violent behaviour.
- 2) How are instances of frustration/disputes treated? Are instances of conflict treated in isolation? Or is there flexibility of approach within a unifying conceptual framework?

- 3) How inclusive is policy? Are multilevel interventions possible whereby peers, parents, school and community can address the diverse needs of students?
- 4) To what extent do support programs operate on a systems level?

On analysis, JCEM Discipline Policy can be viewed as addressing many of these discipline dimensions. JCEM, being a rural school of an isolated coastal community, has adopted a holistic approach to discipline. Undergirding the policy are a number of important ideas. Firstly, there is no attempt to refute how problem behaviours may indeed result from various identifiable risk factors but the tone of the policy is that common behavioural expectations can and should apply to all students irrespective of socio-economic factors such as age, cultural differences, or other factors which may predispose students to nonproductive behaviour. Secondly, the policy assumes that teaching personnel are fundamentally affected by problematic behaviour and is premised on the notion that affected personnel should play a pivotal role in conflict resolution.

The approach is clearly advantageous and capable of meeting the needs of students. Firstly, common expectations create a stable and uniform environment for students, permitting subtle and overt discipline expectations to be learned over time. Secondly, the discipline policy, valuing the need for a “house system”, fun-day activities and other dimensions of school life, attempts to balance discipline and place it within the larger social context of the school. Thirdly, the policy operates at many levels in helping to positively shape student behavioural outcomes. Instances of disputes can be treated differently. Like traditional discipline policies, parents can be informed and consequences can be instigated. Unlike traditional and historical

discipline approaches, JCEM Discipline Policy recognizes the need for direct links with community services, School Board and other professional resources in an attempt to assess and influence behavioural needs. There is the recognition that similar counterproductive behaviour can originate from different causes and in a systems approach to discipline, the policy reflects the importance of many areas of influence.

Related to the systems approach and its importance to discipline, the policy is criticized on the exclusion of students from the process. Discipline writers, including Coleman (1988), suggest the importance of incorporating student leadership into discipline policy for a number of reasons. Victims of violence are empowered to report, disputes can be dealt with at their point of origin, negative peer pressure is countered by positive peer role models and, significantly, student mediators report a profound sense of fulfilment.

The student-helping-student concept could do much to augment current policy at JCEM and further meet the needs of students. Moreover, the means to such inclusion are readily available. The LIA through its community representative offers training in youth peer counselling and the Labrador Board (through its School Improvement Facilitator) provides apprenticeship training in Junior Leadership. Both programs provide training in the ways adolescents can successfully mediate peer conflict and, as such, are recommended for consideration.

Recommendation #3: The JCEM administration should liaise with both the Makkovik LIA Fieldworker and the Labrador School Board School Improvement Facilitator to develop and implement a student leadership program aimed at peer counselling, peer dispute mediation and peer anti-violence training.

Meeting student needs impacts on the teacher's role as discipline agent and his/her need for professional growth. Under the JCEM Discipline Policy, this role is enhanced in areas of

communication, record keeping, student counselling and other related discipline aspects.

Unfortunately the school lacks a guidance counsellor and teachers have not been given the training necessary to ensure that this policy can meet its full and intended objectives. Given the foregoing, the following recommendations are made:

Recommendation #4: A “teacher as school discipline counsellor” institute should be developed through consultation with the Labrador School Board’s guidance services, to address the needs of JCEM staff.

Recommendation #5: The principal of JCEM should facilitate a process aimed at enhancing staff skills in all administrative aspects of school discipline.

Community Values and JCEM Discipline Policy

The importance of community values in discipline policy is not to be underestimated. As history has shown, schools can not rule their way to student behavioural compliance and it indicates the need for shared values and purpose necessary to achieve voluntary commitment to desired discipline outcomes. Importantly, the JCEM Discipline Policy is a document based on the values of the school and greater community at large. As described earlier, the policy formulation process was characterized by weeks of reflection on the draft document and based on the ideas of staff, students and parents. Moreover, the orientation of the policy, assuming the input of community personnel (i.e. fieldworkers, social workers and community leaders) in promoting and enhancing educational and disciplinary goals at the school, would not be possible without nurturing the value system necessary for such to take effect. In these respects, the JCEM Discipline Policy is consistent with the literature as it establishes the important value cornerstone for people to commit together when addressing common school and community behavioural concerns.

Preventative Aspects of JCEM Discipline Policy Rules

Much of the discussion thus far has identified ways in which the JCEM Discipline Policy operates within the larger school and social context as a tool to avoid conflict. However legal considerations force educators to look at pro-activity more rationally and in this regard assess specific elements of the policy -- its rules and procedures. With respect to the former, Mackay and Sutherland (1988) contend that policy review with respect to rules should be guided by reflecting on three questions in order to avoid court prejudice. The questions are: 1) Why do we need a particular rule?, 2) Will a rule have a particular negative effect on students?, and 3) Is the rule fundamentally unfair?

JCEM discipline rules are contained in Sections A and B of the document. These rules specify teacher responsibilities(i.e. attendance, register completion, etc.) and student expectations with respect to indoor/outdoor behaviour as well as classroom demeanour. It further identifies conduct considered particularly serious and outlines consequences which may take effect.

An assessment of JCEM discipline rules suggests that, on the whole, strong argument can be made in support of their utility and reasonableness. The rules place obligation on all actors, and arguments can be made as to their necessity for ensuring safe and orderly school operations. Where rules place limitations on student freedoms (such as the non-smoking rule) school administrators could argue that such rules do not place undue limits on individual freedoms, since many schools and institutions have such rules. These rules attempt to balance individual freedoms against other public health and safety issues.

There are, however, a number of rules contained in the discipline policy which are troublesome and pertain to "Indoor Rules" 4, 7, and 10. Respectively these rules state:

4. If a student has to leave the school for any reason during the day, he/she must first go to the General Office and obtain permission from the principal.
7. Students are not to eat food outside their classrooms or designated areas.
10. Students are expected to come to class wearing the appropriate indoor attire. Certain outdoor clothing, including shirts and coveralls, may not be considered appropriate dress for the classroom (teacher discretion).

Rule 4 would seem to have considerable utility since it pertains to student safety and educators' responsibility for ensuring such protection during the instructional day. However, the rule, as stated, is incoherent with school practice. It is normal student and teacher practice to leave school grounds throughout the lunchtime period. Such practice would contravene objective interpretation of this rule thus casting doubt on its reasonableness. Moreover, the rule does not reflect another reality of the school - - part-time students attending the school on an as-needed basis. Rule 4 does not differentiate students and should therefore be changed to read as follows:

Recommendation #6: "Primary, elementary and full time senior high students are to remain on school property throughout their normal time for instruction. Permission to leave during this period will be at the discretion of the principal".

Rule 7 is likewise troublesome and places limits on students with respect to food consumption. While the need to restrict consumption in certain areas (such as laboratories, computer rooms and other areas) is recognized, the rule disadvantages those students where restricted areas might serve as home-rooms.

Recommendation #7: Indoor rule 7 should be struck from the JCEM Discipline Policy and be reintroduced to outline all specific areas where food consumption is not to occur.

Rule 10 is likewise contentious because courts have taken the position that teachers, administrators or boards have no business dictating fashion except for reasons related to health, safety, and clothing offensive to the educational process. It is unclear whether this is the intended objective and thus the rule should be re-introduced to reflect these limitations.

Recommendation # 8: Rule 10 should be altered to read: “Students are expected to come to school wearing appropriate attire. Clothing which in the opinion of a teacher and principal, potentially compromises the health and safety of a student or otherwise contravenes the educational process will not be tolerated”.

Indoor rules 4, 7 and 10 are exemplary of the need for comprehensive, well articulated and well understood rules when formulating discipline policy. Indeed this is the intent of the “prescribed by law” and “as can be justified” limitations of the Charter (MacKay and Sutherland). There are a number of implications with respect to the need for further clarification and enhancement of the discipline rules in current JCEM Discipline Policy, forming the basis of the following recommendations:

Recommendation #9: Primary and elementary teachers should rewrite the General Rules of Conduct section of the JCEM Discipline Policy (having considered the recommendations contained herein) in a form understandable to students.

Recommendation #10: The JCEM Discipline Policy should be discussed with the student body during the first assembly of each school year for the purposes of clarifying student expectations and school discipline procedures.

Recommendation #11: The JCEM Discipline Policy rules and procedures should be codified into a school handbook and distributed to parents and students.

Recommendation #12: The JCEM Discipline Policy should more clearly delineate principal and secretary disciplinary roles and responsibilities.

Recommendation #13: The school should clarify parental roles in the discipline process particularly with respect to student safety. Although not exhaustive, areas to address would include early student arrivals, parent procedures with respect to students being received at the school and protocol related to emergency situations (including medical emergencies).

Due Process Assessment of JCEM Discipline Policy

Much of the previous discussion aimed at attaining greater fairness and prevention in JCEM Discipline Policy rules focuses on substantive aspects of discipline policy. However, Black-Branch (1994) cautions that disputes and legal challenges often originate in the methodology associated with the application of rules. This aspect of due process (i.e. procedural due process) is important in the assessment of JCEM Discipline Policy particularly as it relates to avoidance.

The literature is clear on procedural due process requirements. Where disputes arise, students must: 1) know the case against them, 2) be given opportunities to present their side of the story, 3) have the right to fair hearings before an impartial decision maker and, 4) be given avenues of appeal. In less-serious infractions of behavioural expectations, the JCEM Discipline Policy prescribes that informal (due process) procedures be followed. Students are given the means to discuss conflict with the teacher involved or his/her advisor. The teacher, after hearing and deciding on the merits of the situation, instigates measures aimed at resolving conflict including consequences. In instances where conflict can not be successfully resolved, the school's principal becomes involved and various resources may be deployed.

Legal writers state that schools need not follow legal procedures every time there is a discipline incident. For less-serious matters, an informal student-centred approach like that prescribed by the JCEM Discipline Policy is acceptable and need not change provided minimal procedural requirements are met. This would include communicating (to students and parents) reason(s) for conferencing, providing opportunities for students to present their side of an incident, remaining objective in deciding outcomes, summarily documenting sessions, and providing avenues for appeal (such as referral to a principal). Such outcomes are achievable

under existing JCEM Discipline Policy and should remain in practice. As a means of ensuring such practice particularly in teacher replacement instances, the following recommendation is made:

Recommendation #14: The principal and staff of JCEM should review and discuss informal discipline procedures at the beginning of each year (and as part of Administrative Day proceedings) with a view of understanding 1) its purpose and function, 2) level of professional conduct to be shown to students, and 3) procedural protocol.

JCEM Discipline Policy makes a distinction between less-serious behaviour and serious student misconduct (i.e. disobedience, destructive behaviour and insubordination). Procedures related to the latter are outlined in Section B (p. 8) of the document and specifically states:

The Principal, in consultation with teachers, will deal with all matters of this nature. Minutes of any sessions may be recorded by a mediator (at request of principal).

The principal, after due consultation, will make a decision on appropriate measures to be instigated before the end of the instructional day.

There is an identifiable attempt to more stringently meet due process requirements. This is important because in matters potentially affecting a student's future, the courts are quick to ensure that decision making is of an objective nature, based on verifiable information (i.e. anecdotal information) and impartial judgement. The right to be heard, have adult and legal council, call witnesses, question accusers, and reasonable punishment becomes paramount and , importantly, all of these measures can be accommodated within the framework of the JCEM Discipline Policy. Moreover, pursuant to the School's Act, if a parent or student is unsatisfied

with a school-level decision, an appeal can be made to the Labrador School Board where a similar process and final decision will be rendered (exclusive of court action).

JCEM Discipline Policy direction with respect to the more contentious forms of student misconduct appears valid and, to the extent that it can work within an acceptable legal framework, further adds to its fairness and utility. However there remains peripheral issues that if addressed by policy revision could enhance procedural due process and potentially make decision making more effective.

Many schools creative in conflict avoidance have implemented various measures aimed at greater site-based containment (Oyler, 1996). The development of a Discipline Committee structure (or equivalent) having the ability to hear serious disputes and provide recommendations to the school's administration may bolster the process. Such structure would make the appeal process less cumbersome (given that the community is geographically isolated from the Board) and it would further provide administrators with an important avenue of "sober second thought" when making difficult behavioural decisions.

Recommendation #15: JCEM should establish a School Discipline Committee having the mandate to hear parent appeals and make recommendations to administrators concerning such matters.

Instrumentation and the System of Documentation Under the JCEM Discipline Policy

Discussion in an earlier paper suggested why documentation and concomitant instrumentation is crucial to a school's discipline process. Instrumentation when deployed effectively serves many functions and includes: 1) informing stakeholders of the nature of student behaviour; 2) placing potentially sensitive issues at arm's length thereby bringing objectivity to discipline procedures; 3) communicating depth of treatment and actions taken by

school personnel to external agents; and, 4) fostering a preventative approach to school discipline practices. Clearly the manner in which instruments are used and the information they convey are particularly important to policy analysis.

The JCEM school has two discipline instruments -- the *Discipline Notice* and the *Absentee List* (see appendices A & B in the policy). The former is the primary means used to inform parents of unacceptable student behaviour and is the formal document applied to a student's file. The *Absentee List* is an instrument used to highlight a student's unaccounted morning or afternoon absence from the school and one which initiates an investigative response by personnel.

The *Discipline Notice*, like most instruments of documentation, identifies: 1) the time, and nature of an unacceptable event; 2) the actors involved (the student, teacher or other person); 3) specific actions taken by school or other personnel; and, 4) presents a forum for recommendations considered necessary in dealing with student altercations. The instrument, in its broadest sense, fulfills its mandate to inform. However, it contains a number of identifiable inconsistencies requiring redress to further enhance its efficacy. Specifically,

1. the *Discipline Notice* does not clearly express the forms of behaviour cited as particularly unacceptable in Section B of the policy document (i.e truancy, insubordination, cheating, etc.). Instruments arise from policy. By failing to outline all manners of unacceptable behaviours, the instrument remains inconsistent with the intent of policy.
2. As a reporting and documenting tool, the instrument lacks space for personnel to describe the context of an infraction. This is inherently disadvantageous because it does not adequately inform parents at the point of inception as to the particulars of the disciplinary infraction and limits reporting to a superficiality. Importantly, such practice would be open to court scrutiny especially with respect to "duty to inform".

3. The efficacy of *Actions Taken Prior to this Notice* section of the instrument is questioned as, pursuant to policy procedures, any school personnel may issue a discipline notice and there is no coordinated system for recording “prior action taken”.
4. The *Present Action and Recommendation(s)* section of the instrument is also potentially counterproductive and suspect. This categorization will likely confuse parents as this section of the form does not clearly distinguish actions taken as opposed to actions which may occur. Furthermore, pursuant to the procedural protocol that “the principal ... be informed simply by checking the discipline file” (Discipline Policy, Introduction, p. ii), this section of the instrument is potentially risky. There remains the untenable position of teachers making recommendations to parents without the informed consent of the principal. Teacher recommendations, although important, may potentially undermine the authority of the principal and this feature of the instrument should be changed.

Based on the above analysis, the following recommendations are advised:

Recommendation #16: Categories within the *Discipline Notice* should be limited to the following sections: 1) Reasons for this Notice, 2) Actions Taken, and 3) Recommendations made to the Principal.

Recommendation #17: An area should be provided in the *Reason For This Notice* section of the instrument for school personnel to briefly describe and contextualize the specific nature of a behavioural or rule infraction.

Recommendation #18: Categories within the *Actions Taken* section should be clearly outlined with greater room for teacher comments.

Recommendation #19: A system should be devised to alert the school principal of serious recommendations made with respect to student behaviour.

Particularly disturbing is the lack of other school discipline instruments. Clearly there are many other dimensions to school discipline including warnings issued, telephone logs of conversations held, behavioural contracts, procedures followed during investigation, summaries of discipline conferences and interviews and counselling synopsis. Ramsey (1994) states “the primary purpose of all disciplining documentation is to establish a paper trail showing a sequence of events and actions” (p. 237). He suggests that in a court-conscious society, it is better to err on the side of over documentation than to minimize its practice.

Recommendation #20: The school should develop other formal instruments for recording, reporting and validating the actions of staff with respect to school disciplinary procedures and activities.

Procedures for Responding to Criminal Student Behaviour

Particularly troubling is the lack of guidance provided by JCEM Discipline Policy with respect to criminal student activity. Criminal student activity represents the extreme in unacceptable student behaviour and one that administrators can no longer ignore. In cases where students are charged with a criminal offence, principals and educators are limited in their actions. As search and seizure cases demonstrate, the courts give great consideration as to whether school officials act in the capacity of a “person in Authority” (comparable to a police agent) versus school agent. The distinction is an important one because it relates to the admissibility of evidence and court judgement with respect to the actions of school personnel. There have been calls for schools to “*Charter proof*” discipline policy with respect to these and other measures. Moreover, for an isolated community and one lacking a permanent police presence, it would be well advised for JCEM to seek legal consultation on appropriate discipline practices, questioning procedures, documentation and enforcement protocol in such incidents.

Recommendation #21: The JCEM principal should work with the R.C.M.P. and legal council of the Labrador School Board to establish procedural protocol for dealing with criminal student behaviour.

Recommendation #22: Information sessions should be instituted, as part of ongoing teacher professional development, to educate personnel on ways of approaching this criminal aspect of student behaviour.

JCEM Discipline Policy and Labrador School Board Bylaws

The Schools Act states that school discipline actions taken by school personnel is subject to school board bylaws. This places legislative and legal obligations on schools to clearly work

within board directives. Moreover, in cases where school personnel have been shown negligent in carrying out discipline duties and compromising student safety, the courts typically hold boards financially liable (a concept called vicarious liability). For these and related reasons, it is inconceivable that a school's discipline policy not work contrary to school board directives. This remains an important consideration of the JCEM Discipline Policy.

The relevant discipline policy section of the Labrador School Board Operations and Procedures Manual is Section J.2.B. It outlines how each school must develop a "code of student behaviour" reflecting the need for safe school operations in policy and gives direction to such end. Specifically, J.2.B states:

Principals are encouraged to use the following guidelines in establishing the codes of student behaviour:

- 1. A committee of teachers, with the principal, will develop a draft of a school-wide code of student behaviour.**
- 2. The draft is presented to the total staff for reaction and suggestion.**
- 3. The committee prepares final draft.**
- 4. The total staff is presented with the final draft for approval.**
- 5. The adopted code is presented to parents through special meetings, bulletin, and the parent handbook.**
- 6. The principal presents the plan directly to students in an assembly.**
- 7. Follow-up discussions with students are conducted in classrooms.**
- 8. The code is monitored on an ongoing basis by the principal and committee.**

Importantly, the process leading to the JCEM Discipline policy as described in *The J.C.E.M. Discipline Policy Formulation Process* remains consistent with the philosophy and intent of bylaw J.2.B. The mandates prescribed by subsections 1 - 7 were followed in developing “Code of Conduct” criteria and furthermore, this procedure was extended to other aspects of policy process.

Subsection 8 remains particularly relevant to policy analysis because it points to the need for ongoing review of school rules. This is a valid directive as exemplified by JCEM Discipline Policy. Since the policy’s initial inception there have been changes in school operations that are not reflected in current discipline policy. School hours of operation have changed and students are to be instructed beginning 8:30 a.m. daily rather than 8:55 a.m. as reported by policy. The number of part-time students have increased, necessitating a change with respect to ‘locking of the doors’ as outlined by Section A. For these and related reasons, it is important that:

Recommendation #23: JCEM Discipline Policy should be subject to an annual review by a JCEM Discipline Committee consisting of student, parent, teacher and principal membership.

Recommendation #24: The annual review of JCEM Discipline Policy should include: 1) critiquing existing school discipline policy rules and procedures for their efficacy and legal feasibility.

Recommendation #25: The Discipline Committee should be provided the means to liaise with the Labrador School Board and have access to its resources so as to ensure compliance with Board Bylaws or other potential concerns.

Summary and Conclusion

The construction of policy whether from a conceptional or legal basis is fundamentally about insuring fairness and meeting human and organizational needs. An analysis of JCEM Discipline Policy in the context of the community and people it serves, has confirmed the viability of a workable discipline model, one capable of meeting the demands and challenges faced by all participants. Unlike historical approaches to discipline, JCEM does not advocate a simplistic, punitive approach to meeting student behavioural challenges. The policy prescribes consequences, shared decision making and a variety of community and external resources as the means for meeting behavioural needs. The distinction is significant because it draws attention to the complexity of behavioural challenges requiring a system and services approach as prescribed by the literature. However, the preceding analysis indicates important measures that should be considered to enhance greater understanding of existing policy rules and procedures, and generally make the policy more inclusive for the school community. The recommendations contained herein are based on such a perspective and identify practical means by which human and organizational needs with respect to school discipline can be further bolstered at JCEM.

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Appendix A

The following is a compilation of the recommendations for change in the current JCEM Discipline Policy:

Recommendation #1: Decisions respecting alteration of current policy must occur with adequate school and community stakeholders at all levels of the process.

Recommendation #2: The JCEM Discipline Policy should contain a statement of philosophy.

Recommendation #3: The JCEM administration should liaise with both the Makkovik LIA Fieldworker and the Labrador School Board School Improvement Facilitator to develop and implement a student leadership program aimed at peer counselling, peer dispute mediation and peer anti-violence training.

Recommendation #4: A “teacher as school discipline counsellor” institute should be developed through consultation with the Labrador School Board’s guidance services, to address the needs of JCEM staff.

Recommendation #5: The principal of JCEM should facilitate a process aimed at enhancing staff skills in all administrative aspects of school discipline.

Recommendation #6: “Primary, elementary and full time senior high students are to remain on school property throughout their normal time for instruction. Permission to leave during this period will be at the discretion of the principal”.

Recommendation #7: Indoor rule 7 should be struck from the JCEM Discipline Policy and be reintroduced to outline all specific areas where food consumption is not to occur.

Recommendation # 8: Rule 10 should be altered to read: “Students are expected to come to school wearing appropriate attire. Clothing which in the opinion of a teacher and principal, potentially compromises the health and safety of a student or otherwise contravenes the educational process will not be tolerated”.

Recommendation #9: Primary and elementary teachers should rewrite the General Rules of Conduct section of the JCEM Discipline Policy (having considered the recommendations contained herein) in a form understandable to students.

Recommendation #10: The JCEM Discipline Policy should be discussed with the student body during the first assembly of each school year for the purposes of clarifying student expectations and school discipline procedures.

Recommendation #11: The JCEM Discipline Policy rules and procedures should be codified into a school handbook and distributed to parents and students.

Recommendation #12: The JCEM Discipline Policy should more clearly delineate

principal and secretary disciplinary roles and responsibilities.

Recommendation #13: The school should clarify parental roles in the discipline process particularly with respect to student safety. Although not exhaustive, areas to address would include early student arrivals, parent procedures with respect to students being received at the school and protocol related to emergency situations (including medical emergencies).

Recommendation #14: The principal and staff of JCEM should review and discuss informal discipline procedures at the beginning of each year (and as part of Administrative Day proceedings) with a view of understanding 1) its purpose and function, 2) level of professional conduct to be shown to students, and 3) procedural protocol.

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Recommendation #19: A system should be devised to alert the school principal of serious recommendations made with respect to student behaviour.

Recommendation #20: The school should develop other formal instruments for recording, reporting and validating the actions of staff with respect to school disciplinary procedures and activities.

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Recommendation #22: Information sessions should be instituted, as part of ongoing teacher professional development, to educate personnel on ways of approaching this criminal aspect of student behaviour.

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Recommendation #24: The annual review of JCEM Discipline Policy should include: 1) critiquing existing school discipline policy rules and procedures for their efficacy and legal feasibility.

Recommendation #25: The Discipline Committee should be provided the means to liaise with the Labrador School Board and have access to its resources so as to ensure compliance with Board Bylaws or other potential concerns.

Appendix B

The John Christian Erhardt Memorial Discipline Policy

Introduction

The present discipline policy has been in place for some time. In the past, informal means of dealing with discipline has proven to serve the school well. However, J.C. Erhardt Memorial is now a newer and different facility requiring somewhat different expectations of students and staff. It was felt that revision to the former policy may be required and in January, at the request of Ms. Chaulk, a committee was formed to evaluate the school's former discipline policy and to recommend any changes it felt were necessary to improve it. The following Discipline Policy is the culmination of such efforts.

This policy was developed as a result of the discipline committee reviewing the policies of other schools within the district (Jens Haven School, Nain; Amos Comenius, Hopedale and Peacock Academy, Happy Valley-Goose Bay) and meeting regularly to discuss the kinds of things the school felt appropriate for J.C. Erhardt Memorial. Very early in our discussions it became evident that 1) the present policy was inadequate and, 2) any attempt to revise policy would require consideration of certain legal implications of proposed changes.

With regard to the latter, an article by Harte and McDonald (1994) was particularly instructive and made the following recommendations related to discipline protocol:

- i) "That school principals ensure that current disciplinary practices provide for due process..."
- ii) "School rules be clearly stated and not open to charges of ambiguity and vagueness"
- iii) "All matters pertaining to discipline be well documented and this information kept on file (a discipline file)"
- iv) In general, a preventative discipline approach be taken.

This policy attempts to meet these challenges.

A major difference between this policy and its former counterpart is the level of involvement required by staff. A good discipline policy, it was felt, will require far more commitment and action by the entire community. Practically, this means some added responsibilities. Teachers under this plan are required to be more active in parent notification and communications as well as related record keeping, for example. An important secretarial duty includes doing the necessary morning and afternoon student checks with regard to absenteeism.

These added measures have been assigned in order to bring greater accountability and uniformity to the measures associated with daily discipline. Under this system teachers can do a large part of the record keeping and the principal can be informed by simply checking the discipline file of each student on a need-to-know basis. This, it was felt, will allow the principal more time to deal with serious discipline matters.

Measures associated with infractions are dealt with by various means. Like many discipline policies consequences have been identified. However teachers are cautioned to use consequences sparingly and in the greater context of other measures. Teachers are expected to meet with and counsel students and to establish clear lines of communication with parents and the principal in all discipline matters. The committee further proposes that the school adopt measures aimed at the establishment of a House System and periodic “fun day” activities aimed at developing stronger links among members of the school community. These areas require further discussion.

In the final analysis, the drafting of the discipline policy was about setting expectations.

In this policy the committee recognized the importance of students doing their best and respecting school and one another. Students coming to school late was not deemed to be O.K.; leaving school, excessive absenteeism , cheating , failing to do assignments, etc. were definitely not O.K. and considered counterproductive to the school. These have always been expectations of J.C. Erhardt, and in this sense, nothing had changed. Under this policy, rules and procedures are clearly established, students are held more accountable, teachers become more involved, parents are better informed and good behaviours promoted. It is hoped that the combination of these influences will collectively make our work as educators easier and the school more productive for everyone.

D.S.

Section A

Teacher Responsibilities:

RE: Attendance, register completion, student transfer and record keeping (student attendance and disciplinary file maintenance).

The following are the recommended steps to undertake as a means of monitoring and documenting student attendance.

I. Morning/Afternoon Attendance:

2. Mark the register from 8:55 - 9:00 and 1:10 - 1:15.
3. Send a list of all class absentees to the secretary at 9:00 and 1:15.
4. Any student not present for the marking of the register will have to report to the General Office to obtain a late slip. Students arriving late are not to interrupt or be admitted to any class without a late slip.
5. Copies of all late slips or notes regarding absenteeism are to be kept in the register. This means that if a teacher receives a late slip from a student, it is the responsibility of that teacher to provide the home-room teacher with that information.
6. With regard to students not present for the marking of the register, teachers are to determine the cause of the absence by consulting the "Absentee List" which will be posted in the General Office. This list will be available to teachers by 10:20 am and 3:15 pm.

II. Register Maintenance:

1. The register is a legal document and must be accurate and completed according to the instructions outlined on page one of the register.
2. Teachers are not to use the 'P' code in the register unless they have the authorization of the principal.
3. A monthly attendance report for each class is due to the principal on the last day of every month.

III. Other Responsibilities:

1. As a means of monitoring truancy, teachers are to keep attendance records for each of their subject areas (junior and senior high teachers only).
2. Students not in attendance for 15 days (consecutively or in total) are to be brought to the attention of the principal.
3. Subject teachers (junior/senior) are to bring their registers with them if they are to teach in rooms other than their home-room. In the event of fire or other emergencies, this will ensure that teachers will not have to return to their home-room to get their registers prior to leaving the building.
4. Completion of a Student Transfer Form is required for those students leaving this school on a permanent or semi-permanent basis.
5. Teachers are to ensure that all incidents of meetings held with students relating to truancy, excessive absenteeism, fighting and insubordination are recorded. All records should be of an objective nature and placed on the student's discipline file.
6. Teachers are also to summarily maintain the discipline files for their home-room students at the end of every month.
7. Teacher duty is extended to 3:45 pm. Three people are required to be on duty as one teacher should be permanently patrolling the high school section.
8. Teachers on indoor duty are to ensure that the door at the high school and primary/elementary end are locked by 9:00 and 1:15. Consequently, late students will enter the building by the main entrance and receive necessary documentation from the secretary.

General Rules of Student Conduct

Outdoor Rules:

1. Other than the 11:55 - 1:00 pm lunch break, students are to remain on school grounds for the entire school day. Infractions of this rule will be dealt with according to the rules of truancy.
2. Any behaviour(s) or instrument which may endanger the safety of others is not permitted. This includes the throwing of rocks, snowballs, and sticks and, in general, using objects for reasons other than their intended safe purpose.
3. Improper language is not permitted at any time.
4. The entire school area is to be smoke free. Smoking is not permitted at any time on school property.
5. In the interest of student safety, vehicles are not to enter/trespass school grounds via the primary/elementary entrance.

Indoor Rules:

The following rules apply to entrances, corridors and classrooms during the instructional day.

1. Upon entrance to the building, all outdoor footwear and clothing are to be removed and neatly stored in the lockers provided.
2. Between periods, students are expected to move to their next class in a quiet and orderly fashion. There will be no running, shouting, rowdiness or excessive noise.
3. Students wishing to go to the washroom between classes must first proceed to the next class and obtain permission from that teacher.
4. If a student has to leave the school for any reason during the day, he/she must first go to the General Office and obtain permission from the principal.
5. Students are not to act in ways which may endanger the safety of others or be potentially damaging to school property (i.e. tossing objects as opposed to passing them).
6. Gum chewing is not permitted. Food or drink, other than those allowed by staff on

special class-related events, is not permitted during normal instructional periods.

7. Students are not to eat food outside their classrooms or designated areas.
8. Food &/or drink is not permitted in the following areas at any time: laboratory, library and computer room.
9. Individual use of tape decks or other related equipment used during class time is at the discretion of the teacher.
10. Students are expected to come to class wearing the appropriate indoor attire. Certain outdoor clothing, including shirts and coveralls, may not be considered appropriate dress for the classroom (teacher discretion).
11. Books must be placed in desks (or designated areas) and chairs neatly stored on desk tops to ensure efficient cleaning of the classrooms by the janitor.
12. Students are not normally permitted in the staffroom, the furnace and storage room, the janitorial room and the resource room. Students are permitted in these areas only if granted permission by a teacher.
13. Students are not to loiter in the general office. This area is a place of business and should be used to obtain/send assignments (Distance Ed. students) or related information.

Class Rules:

4. Students are to display courteous behaviour towards their peers and teachers.
5. Students are to raise their hands to avoid a chorus response.
6. Students are expected to remain quiet while another student or teacher is talking.
7. Students are to be attentive during class.
8. All reasonable efforts are to be made to keep classrooms and desks clean and tidy.
9. Students are expected to complete all assigned homework and assignments to the best of their ability.

These rules establish a minimum level of expectations for all students toward fellow students, staff and school property. These rules will be enforced in a firm and consistent manner by all staff .

Section B

This section identifies and defines persistent problems related to ongoing infractions of *General Rules of Student Conduct*. Recommended actions in order of seriousness is presented for each of the following areas:

- A. Truancy
- B. Lateness
- C. Excessive absenteeism
- D. Fighting
- E. Insubordination
- F. Cheating
- G. Failing to complete homework or assignments.

A. Truancy:

Truancy refers to any K - Level III student who leaves or is absent from the school without a valid reason. Under no circumstance are students to leave the school without prior authorization from the principal.

- Discipline Measures:
1. Individual counselling by the teacher concerned, his(her) advisor or principal and parent notification. The incident is to be recorded on the student's discipline file.
 2. Notification to parent and loss of extra-curricular activities for one week (and relevant discipline file notification).
 3. Recommendations to the principal for suspension of the student from school for 1 - 5 days. If instituted, parents must accompany the student on return to school (anecdotal records placed on discipline file).

B. Lateness:

Students are responsible for being to class on time. This includes being present for home-room at 8:55 am and 1:10 pm. Students who are not present in class for the marking of the register will be considered late.

All late students must get a late slip before being admitted to class. One copy of the late slip must be given to the home-room teacher and the slip entered into the register.

Disciplinary Measures:

1. Parent notification by teacher or principal. The student may lose any gym or extracurricular privileges for that day (teacher discretion).
2. Suspension of extracurricular privileges for one week (repeat offences).
3. After three days of unexcused lateness per month (consecutively or aggregately), the student will not be permitted to participate or represent the school in any extracurricular activities (drama, sporting events, music, etc.). Only a consistent pattern of attendance and a positive review of a student's school performance will permit eligibility for such events to be reinstated.

C. Excessive Absenteeism:

Students are not to miss instructional classes due to household or outdoor activities or remain home unless the reason is deemed valid by the principal. Students missing greater than one school day per week or an aggregate of 15 days for unexcused absences will fall into this category.

Students who report being sick will be considered excusably absent from school provided written or verbal confirmation is provided to the school from parents, guardians, medical personnel or other recognized individuals.

Disciplinary Measures:

1. Individual counselling by teacher, advisor or principal and notification to parents/guardians (recorded on discipline file).
2. Suspension of extra-curricular activities and further notification to parents.
3. If a student misses three consecutive days of instructional time owing to unexcused absence, the student will have to be accompanied by an adult and meet with the teacher, advisor or principal before the student is readmitted to class (relevant documentation to discipline file).

4. Notification to parents/guardians that outside agencies have been contacted (Social Services, School Board, etc.).

D. Fighting:

Fighting is any intentional physical act which attempts to harm a student or staff member. Under no circumstances will pushing, shoving or punching be tolerated if it is done in a demeaning manner and in such a way as to violate the safety of any individual.

There will be automatic suspension for 3 - 5 days for any student hitting a teacher. Parents will be notified and a meeting held among the affected student(s), parent(s), teacher and principal prior to any student reinstatement. As well, depending on the seriousness of the act, the teacher may bring a civil suit against the student in a court of law.

Fighting among students may result in any of the following measures:

- i) Individual counselling by teacher, advisor, principal or other resource agent.
- ii) suspension of extra-curricular activities
- iii) Immediate suspension for 1 - 5 days

Parents or guardians will be notified by the school in all incidents of fighting. All communications with respect to fighting will be reported in a student's discipline file.

E. Insubordination:

Insubordination includes any unruly conduct (including disobedient, disruptive or destructive behaviours) and/or rude comments or gestures directed towards any staff member.

Students will not be penalized for freedom of speech. However, comments of a demeaning nature or those which challenge the authority of school personnel, will be considered insubordinate. Teachers have the right to decide what constitutes insubordination and it will be dealt with in an appropriate and effective manner.

Disciplinary Measures:
(less serious)

The teacher involved or the student's advisor will:

1. Meet with affected individual(s) in an attempt to resolve the incident.
2. Notify parents or guardians in writing

3. Document meeting outcomes and actions taken (placed on disciplinary file).

The use of profane language, rude gestures or grossly disobedient behaviours which attempt to belittle or hinder a teacher will be considered particularly serious forms of insubordination.

Disciplinary Measures:
(serious) The principal, in consultation with teachers, will deal with all matters of this nature. Minutes of any sessions may be recorded by a mediator (at request of principal). The principal, after due consultation, will make a decision on appropriate measures to be instigated before the end of the instructional day.

F. Cheating:

Cheating refers to the copying of another student's work that is to be graded (i.e. examinations or assignments). The teacher will decide when copying has occurred and the extent to which it has taken place (one or both individuals).

Disciplinary Measures: Cheating is not acceptable under any circumstances. Students found copying will receive a mark of '0'.

G. Failure to Complete Homework or Assignments:

Students are to submit assigned work on the date it is due. Failure to comply with this expectation can result in a variety of teacher responses depending on the circumstances and discretion of the teacher . Students may receive a zero on the related work, be granted an extension or be subject to a variety of consequences (teacher discretion).

Reference

Harte, A. J., & McDonald, K. (1994). Due process in school discipline: Implications of the charter. Morning Watch, 21 (3-4), 10 - 16.

Appendix A

Student's Name	Discipline Notice J.C. Erhardt Memorial Makkovik, Labrador 923- 2275	Date of Incident
Class		Period - Time of Day
Teacher		
Instructions		
1. The purpose of this notice is to inform you of a disciplinary incident involving your son or daughter. 2. Please note the action taken by the teacher and the corrective action initiated today.		
Reason(s) For This Notice: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"><input type="checkbox"/> SKIPPING CLASS</div> <div style="width: 33%;"><input type="checkbox"/> DESTRUCTIVE TO SCHOOL PROPERTY</div> <div style="width: 33%;"><input type="checkbox"/> UNACCEPTABLE LANGUAGE</div> <div style="width: 33%;"><input type="checkbox"/> EXCESSIVE TARDINESS</div> <div style="width: 33%;"><input type="checkbox"/> LITTERING</div> <div style="width: 33%;"><input type="checkbox"/> FIGHTING</div> <div style="width: 33%;"><input type="checkbox"/> RUDE /DISCOURTEOUS</div> <div style="width: 33%;"><input type="checkbox"/> DISRUPTIVE/UNCOOPERATIVE</div> <div style="width: 33%;"><input type="checkbox"/> LEFT GROUND WITHOUT PERMISSION</div> <div style="width: 33%;"><input type="checkbox"/> EXCESSIVE TALKING</div> <div style="width: 33%;"><input type="checkbox"/> ANNOYING TO CLASSMATES</div> <div style="width: 33%;"><input type="checkbox"/> OTHER _____</div> </div>		
Actions Taken Prior To This Notice: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"><input type="checkbox"/> TELEPHONED PARENT</div> <div style="width: 33%;"><input type="checkbox"/> HAD CONFERENCE WITH PARENT</div> <div style="width: 33%;"><input type="checkbox"/> SENT PREVIOUS NOTICE(S)</div> <div style="width: 33%;"><input type="checkbox"/> REMOVED PRIVILEGES</div> <div style="width: 33%;"><input type="checkbox"/> HAD CONFERENCE WITH STUDENT</div> <div style="width: 33%;"><input type="checkbox"/> DETAINED STUDENT AFTER SCHOOL</div> <div style="width: 33%;"><input type="checkbox"/> OTHER _____</div> </div>		
Present Action and Recommendation: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"><input type="checkbox"/> PARENT CONFERENCE RECOMMENDED</div> <div style="width: 50%;"><input type="checkbox"/> STUDENT BE SUSPENDED</div> <div style="width: 50%;"><input type="checkbox"/> STUDENT REPRIMANDED</div> <div style="width: 50%;"><input type="checkbox"/> STUDENT WILL MAKE UP TIME</div> <div style="width: 50%;"><input type="checkbox"/> STUDENT PLACE ON BEHAVIOURAL CONTRACT</div> <div style="width: 50%;"><input type="checkbox"/> MATTER REFERRED TO:</div> </div> <div style="border-bottom: 1px solid black; height: 20px; width: 100%;"></div> <div style="border-bottom: 1px solid black; height: 20px; width: 100%;"></div>		

Pink - Parents' Copy

Blue - Discipline File

CopyGold - Register Copy

Appendix B

ABSENTEE LIST

Date: _____

Code: L - Late
 A - Absent
 P - Principal permission
 S - Sick

Time (a.m.)		Time (p.m.)	
Student Name	Code	Student Name	Code



