

School admissions and principals' craft-
competency and craft-literacy in case law
compliance

by

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Recognition of the child's right to be treated differently is the first step towards acknowledging his/her individual rights that will serve as the basis for accommodating his/her best interests in everything we do.



Declaration

I declare that this study entitled:

School admissions and principals' craft-competency and craft-literacy in case law
compliance

is my own work in concept and execution, and that all that the sources used or quoted
have been acknowledged by means of direct and indirect references. This dissertation
has not been submitted for any degree or examination at any other university.

Jabulani Nyoni

Signed: _____

Date: _____

Dedication

In memory of my dear late mother, Martha, grandfather, Gabriel Chabota, grandmother Laiza Phuhe, my father in-law, Christopher, my brother Siphon, his little daughter Shailen and uncle Elvis. Life in this world is but a very brief passing phase. The legacy we bequeath must serve as an inspiration to those who remain. A legacy that protects the rights and dignity of young children is worth striving for.

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My explicit and sincere appreciation to my better half, Nomusa, for enduring the inconveniences and pain that go along with a study of this magnitude. I admire her fortitude and calmness in times of dire straits when I almost decimated every strand of hair off my head. My sincere gratitude goes to my daughter and son for being closest allies when friends and comrades have deserted into their lairs during the night.

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The list of acknowledgement would not be complete without mentioning Lina Coetzer for editing my work. Last but no means the least my mentor and supervisor, Prof. Dr. J.L Beckmann for being such a wonderful service provider.

God almighty! The caregiver and provider to all living species, I thank you.

Abstract

In the post apartheid state, education is viewed as an important tool for rapid socio-economic development. The economic, ecological, technological and political conditions that characterized the South African crisis were assumed to be a result of inadequate education partly due to Bantu education. Accordingly the new democratic government with the view of revamping the education system in compliance with the provisions as stipulated in the Constitution and other subordinate laws endeavoured to decentralize power and authority to School Governing Bodies (governance) and administrative management of schools to principals. It must be appreciated therefore that some among those who were appointed to positions of school principals lacked the craft-literacy and craft-competency skills to devise effective and efficient administrative management processes needed to produce functional schools in a constitutional democracy.

The research therefore seeks to determine the levels of craft-competency and craft-literacy of public school principals in administering case law in schools as required by the Constitution of South Africa, 1996, the Employment of Educators Act, 76 of 1998 and The Promotion of Administrative Justice Act (PAJA), 3 of 2000 to mention but a few legislative instruments. In principals' exercise of power and authority during the process of administering their schools, the administrative actions must be lawful, reasonable and procedurally fair in line with the relevant empowering provisions in their disposal.

The qualitative case study used was meant to interpretively test the impact of the admissions policy as amended by The Education Laws Amendment Act, 50 of 2002 in public schools. It appears that only craft-competent and craft-literate principals are better positioned to adopt correct administrative actions that ensure that the rights of learners are not infringed upon and that their interests are taken care of at all times. It also seems that , generally speaking, principals lack craft-competency and craft-literacy skills and that they receive inadequate support.

Key words

1. Craft-competency
2. Craft-literacy
3. Administrative action
4. Case law
5. Admission policy
6. Empowering provision
7. Public school principal

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Chapter 1

1 Introduction

1.2 Statement of purpose

The purpose of the research on which this dissertation reports is to investigate, by means of a qualitative case study, the craft-competency and craft-literacy of public school principals work as they work with case law in relation to admissions policy. By law school principals are expected to be craft-literate and craft-competent in translating and interpreting legal instruments in accordance with procedures detailed in the empowering provisions at their disposal at school level. Administrative decisions they take must comply with legal instruments or guidelines in the form of law, policy or regulations related to education.

1.3 Background/contextualisation

The post-apartheid political dispensation, ushered in by the non-racial democratic election of 1994, is guarded by one of the world's most advanced constitutions. The Constitution of the Republic of South Africa of 1996 in turn gave birth to the South African Schools Act, 84 of 1996 which was intended to govern and regulate certain specific legal relationships, including activities, in the field of education. Since the promulgation of the supreme law (the Constitution) and subordinate laws, a number of cases, contesting the legality of policy and other legal decisions that might have been construed as detrimental to the right of education to children, have surfaced before competent courts of law for adjudication.

Subsequent court decisions have at times invalidated or upheld policy decisions taken by some government officials in the education departments. More often than not, they are compelled to make policy adjustments in order to comply with

court judgments. Any person, who feels aggrieved, for example by the administrative decision by any department of education, might bring litigation against it for adjudication by any competent court of law. One such court case is CCT13/01 (*Doreen Harris versus the Department of Education*).

On 18 January 2000 the Minister of Education published a notice under section 3 (4) (i) of the National Education Policy Act, 27 of 1996, stating that a learner may not be enrolled in Grade 1 in an independent school if he or she does not reach the age of seven (7) in the same calendar year. Talya Harris was part of a group of children who had enrolled at the age of three (3) at King David Pre-Primary school and had spent three years being prepared for admission into the primary school proper in the year 2001. The fact that her sixth birthday fell on 11 January 2001 made her ineligible to be enrolled. Contesting the validity of the notice, her parents sought a court order permitting her to be enrolled in Grade 1 in the year during which she turned six (6).

On 15 January 2001, in the Transvaal High Court, Mr Justice Coetzee declared the notice unconstitutional and invalid, and authorised King David Primary School to admit Talya into Grade 1. The judgment declared that the Minister's actions discriminated unfairly on the ground of age and also violated the right to equality guaranteed by section 9 of the Constitution. The judge found that the Minister's actions discriminated unfairly on the grounds of age against Talya and similarly situated children. This discrimination was not justifiable and, accordingly, violated sections 9 and 28(2) of the Constitution that guarantee the right to equality and require the best interests of children to be of paramount importance in decision-making relevant to their rights. The notice was therefore declared to be *ultra vires*, and it was held that the Minister had acted beyond his powers.

The judgment required the Department of Education to comply by making the necessary changes to the admissions policy. The fact that this judgment could have had an immediate major impact on the enrolment of Grade 1 learners in

both public and independent schools, it was incumbent upon principals to comply with the judgment. Prospective learners were denied registration because principals utilised the outdated admissions policy to the dismay of parents. This confusion sent parents into a state of panic and they subsequently confronted the Department of Education to clarify the issue.

Subsequent to the judgment, The Department of Education Media Liaison Officer, Peter Maher issued a statement on 2 August 2004, in response to a number of complaints raised by the parents regarding the registration of children in both public and independent or private schools (see annexure 2). The confusion was compounded by the Department's slow response in cascading the information down to school principals timeously. Almost one full year had elapsed without a clear cut legal circular being sent to schools amending the admissions policy accordingly.

Section 28 (2) of the Constitution provides that: "A child's best interests are of paramount importance in every matter concerning the child". In a constitutional state, rationality, reasonableness, fairness and openness are fundamental in the adoption of administrative action that is lawful, reasonable and procedurally fair, as envisaged by the Promotion of Administrative Justice Act, 3 of 2000. The fact that it takes a while for the Department of Education to filter down court judgments to schools, makes it more important for principals to be craft-competent and craft-literate in the manner in which they handle such case law. In *S v De Blom*, 1977 (3) SA 513 (AD), it was decided that ignorance of the law may even provide an excuse for otherwise unlawful behaviour, as a person is not expected to know all legal precepts but is expected to know empowering provisions that apply in his/her profession. In light of this case, it is legally wrong for them to wait for instructions from the Department, in the interim breaking the law. The empowering legal instrument, on which they may be relying at a specific time, could have been superseded by a court judgment. Craft-competent and craft-literate principals are able to exercise administrative powers in deciding

what is reasonable, fair and within the realm of law without unfairly infringing upon the child's rights. Justice delayed is justice denied. In as far as the clarification of the amended policy is concerned; principals should be able to attend to parents' registration requests without having to refer them to the Department of Education.

Minister of Education v Harris 2001 (4) SA 1297(CC), *Schoonbee and Others v MEC for Education, Mpumalanga and Another* 2002 (4) SA 887 (T), are but two cases that were brought before courts of law for adjudication. These lawsuits challenged the legality of the administrative actions taken by some prominent government officials in the education departments.

The judiciary plays an important role in interpreting as well as applying law. After the legal processes have been completed, the public officials, principals included, in their quest to promote a democratic, open, participative and accountable governance system, must ultimately comply with judicial decisions by performing their administrative (education) acts in an acceptable lawful manner. In this way courts help to interpret, test and refine laws. In other words, courts can influence the implementation of particular policies /laws through their decisions.

The question is whether public school principals are competent and literate enough to play a significant role in the implementation of sometimes complex court decisions. Most of these decisions directly or indirectly affect the administrative functions of principals at school level.

This research is not intended to interrogate the nature and the merits of the case law (admissions policy) under discussion, but to explore the influences such cases have on the effective management of public schools that have to adopt administrative actions that are lawful, reasonable and procedurally fair. School principals, as managers *per se*, are by law required to implement case law such as admissions policy.

1.4 Problem statement

The Constitution of the Republic of South Africa of 1996 prescribes in Chapter 10, section 195, sub-sections (1-6) the following regarding basic values and principles governing public administration:

Public administration must be governed by the democratic values and principles including the following principles:

- Public administration must be development-oriented
- Services must be provided impartially, fairly, equitably and without bias
- Public administration must be accountable
- Transparency must be fostered providing the public with timely, accessible and accurate information...

The role of principals in a democracy is very complex in so far as the interpretation, as well as the dissemination of information in an open system is concerned. It is very unreasonable of principals to turn away prospective students when they pursue their right to be enrolled in a school of their choice. It is not clear whether the culture of dissemination of accurate information to one of the stakeholders (parents) is made accessible to them timeously. Even if parents are aware of the amended admissions policy, principals are reluctant to go along with the law but choose to wait for the Department of Education even if it has lost the appeal.

To comply with the provisions of the Constitution, the Education Department, through its Human Resources Department, is required by law (Employment of Educators Act, 76 of 1998) to organise staff development courses to educate personnel as well as educators, including school principals, in order to enhance their capacity to perform optimally in their respective portfolios with the overall objective, among others, of competently administering case law and effectively implementing policies. The Employment of Educators Act 76 of 1998, in chapter

A, section 4.2, sub-section (b) articles (i) and (ii) prescribes the following aims of such courses:

- (i) To ensure that the school is managed effectively and in compliance with applicable legislation, regulations and personnel administration measures as prescribed.
- (ii) To ensure that the education of the learners is promoted in a proper manner and in accordance with approved policies.

School principals are expected to comply with “applicable legislation, regulations...” but it appears that by failing to comply with court judgments, a law may be broken knowingly or unknowingly. By denying children the right to enrol in their schools, principals failed to comply with the basic legal requirement that of taking into account of the best interests of children.

Cases that are brought before the courts of law against departments of education and the subsequent judgments need public school principals who are craft-competent and craft-literate enough to interpret and implement them accurately in compliance with other empowering provisions at their disposal. In other words, the administrative actions of school principals must conform to authoritative case law on any matter which might have been decided in a court of law. The dawn of the post-apartheid South African democracy empowered the majority of the people in terms of an increasing awareness of their rights. Ordinary people, organisations and other interested parties in education matters began to challenge the decisions made by political heads and public education officials (for example, *Minister of Education v Harris* 2001 (4) SA 1297 (CC)).

Section 33 (1) of the South African Constitution stipulates the following on just administrative action: “Everyone has the right to administrative action that is lawful, reasonable and procedurally fair”. Subsection (3) (c) emphasises the promotion of an efficient administration. Judicial precedents influence the professional management functions of school principals. Case law that directly or

indirectly affects the Department of Education creates obligations on its part to comply. The requirement that public education administration should promote democratic, open, participative and accountable government should be manifested in the way in which officials perform their administrative education acts in their day-to-day delivery of service. If an aggrieved person (e.g. a parent) is not content with the outcome of the school principal's decisions that violate the child's educational interests according to section (34) (Bill of Rights), he or she may seek recourse from the courts. As more people become aware of their democratic rights, they will begin to challenge unsatisfactory administrative acts in the courts of law. This research therefore is intended to find out how principals work with case law in schools.

1.5 Research question

Are school principals craft-competent and craft-literate enough to craft administrative actions that are lawful, reasonable and procedurally fair in the interpretation and implementation of case law at school level?

1.5.1 Sub-questions

1. What do school principals know about case law?
2. How do they come to know about case law?
3. What do public school principals know about just administrative action?
4. How do they comply with administrative action when they administer case law?

1.6 Working assumption

The working assumption in this study was that public school principals were not craft-competent and craft-literate to adopt correct administrative actions when working with case law. This was based on the fact that some administrative

actions adopted by some Departments of Education where challenged in the courts of law (e.g. *Minister of Education v Harris* 2001 (4) SA 1297(CC)). These decisions ultimately affect the administrative management of schools by principals.

1.7 Significance of the study

The rationale behind the study was to contribute to the existing body of research and literature on education law and policy which could be used by public school principals as well as educators in making correct decisions in the process of adopting administrative actions that are procedurally fair. The findings will also serve to provide the departments of education, quasi-governmental organisations and other interest groups with valuable data that they may use in designing staff development courses for principals and teachers. The study also identified craft-competency and craft-literacy problems and challenges and proposed appropriate approaches and strategies to deal with such complex issues that dog public school principals in the education arena.

1.8 Theoretical underpinning/concept analysis

Theory is centred on what defines effective principal ship. It contributes to the theory of what makes the principal effective. In this research I argue that the ability to work appropriately with case law and to adopt correct administrative actions contributes to principal's effectiveness in ensuring that the school provides quality basic education and looks after the best interests of children. I analysed the concepts relevant to the principal's ability to work with case law and take just administrative action.

The Promotion of Administrative Justice Act, 3 of 2000 defines an administrator as "an organ of state or any natural or juristic person taking administrative action". An empowering provision is defined as "means a law, a rule of common

law, customary law, or an agreement, instrument or other document in terms of which an administrative action was purportedly taken”.

Is a public school principal an administrator as defined by PAJA (The Promotion of Administrative Justice Act, 3 of 2000)? Section (ii) of PAJA defines an administrator as “an organ of state or any natural or juristic person taking administrative action”. “The administrator is thus the person, body or official executing administrative action or performing a public function, for example: public functionaries performing administrative action (for example statutory councils and boards, Transnet, Telkom, public schools, universities and other functionaries)” (Burns, 2003). Principals are therefore within the definition by Burns.

Section (1) of PAJA defines administrative action as “any decision taken, or any failure to take a decision, by

(a) An organ of state, when

- (i) exercising a power in terms of the Constitution or a provincial constitution; or
- (ii) exercising a public power or performing a public function in terms of any legislation: or

(b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision, which adversely affects the rights of any person and which has a direct, external legal effect”.

“Decision means any decision of an administrative nature made, proposed to be made, or required to be made, as the case may be, under an empowering provision, including a decision” (Burns, 2003). Any administrative act taken by the principal will naturally culminate in a decision of some kind. If a principal for example chooses to deny a child a place in a school, he/she is by law required to provide reasons for taking such action in writing, or refer the matter to

the Department of Education. Whatever action the principal chooses to adopt constitutes a decision. Such decisions taken need to comply with appropriate legal instruments.

School principals as administrators therefore need to be craft-competent and craft-literate enough to take legally correct administrative actions. The failure to take correct decisions using the available empowering provisions at school level is direct or indirect violation of the law. First of all the administrative acts must be evaluated in terms of the relevant provisions of the Constitution and the Bill of Rights (section 33). Section (33) sub-section (1) states in this regard the following: "Everyone has the right to administrative action that is lawful, reasonable and procedurally fair". Sub-section (2) states that: "Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons".

The craft-competency-model requires school principals to be sufficiently informed about just administrative action so that, as they begin to craft management models in their working environments, their actions comply with the legal provisions in the empowering provisions that regulate relationships and activities in the field of education. The principal should be abreast of the relevant amendments that uphold or repeal certain chapters, clauses, sections or paragraphs in any given Act or policy or any existing laws so that his or her decision-making processes are in line with administrative act procedures. For example, the age requirements for admission to an ordinary public school in the South African Schools Act, 84 of 1996, paragraph (4A), were inserted by general notice 1356, dated 11 December 2001. This was precipitated by the Constitutional Court judgement handed down by Mr Justice Albie Sachs in the case *Minister of Education versus Harris* 2001 (4) SA 1297 (CC) on 5 October 2001.

Before the insertion of paragraph (4A) on 11 December 2001, the underage prospective learners were not admitted that year, despite the constitutional decision handed down on 5 October 2001, unless special arrangements were made to accommodate them. By December, public schools would in any case have completed their registration processes.

The administrative actions of school principals must comply with the provisions of relevant legislation. The task of the principal is not to assume the prime responsibility of courts, being ascertaining how legal norms and standards are interpreted and applied, but applying the court decisions in their administrative actions and decision-making. “It is easy to recognise the legal principles that are involved (the *ratio decidendi* or reasons for the judgement), but to understand how the court applied these principles to the facts and circumstances of the case, is sometimes quite tricky” (Bray, 2000). Managing a school in a democratic and transforming country like South Africa can be very complicated. It requires school managers who are craft-literate and craft-competent enough to understand the dynamics fully.

The research sought to use the case *Minister of Education v Harris* 2001 (4) SA 1297 (CC) to determine how this court decision was interpreted and implemented in schools. The mode of inquiry adopted was that of a qualitative case study. This case (*Minister of Education v Harris*) came under scrutiny during the research process to determine its effect and/or impact on the administration of case law in schools.

1.8.1 Key concepts and their clarification

The following key concepts feature prominently throughout the research project as they assisted to focus and shape the research and constituted the framework in which the research is embedded.

a) Craft-competency

The ability to apply with sustainable regularity guidelines as informed by empowering provisions in decisions and actions.

b) Craft-literacy

The capacity to conceptualise and/or understand the requirements and expectations of administrative action that is lawful, reasonable and procedurally fair under empowering provisions.

c) Administrative action

Any decision taken or any failure to do so by the school principal to implement his/her power/authority or carry out his/her duties in terms of the law.

d) Case law

These are court decisions that are used to determine how legal norms and standards are interpreted and applied by courts in specific cases.

e) Admission policy

An empowering policy document containing detailed guidelines on the enrolment of learners in public schools. A document developed by a school governing body in terms of section 3 (5) of SASA by the governing body of a public school.

f) Empowering provisions

Guidelines that empower/authorise school principals to take legally correct administrative actions.

g) Public school principal

An educator officially appointed to head or manage a public school. (Employment of Educators Act, 76 of 1998, section (4.2) (a)).

1.9 Research design

1.9.1 Ontology/epistemology

1.9.1.1 Interpretivism , ontology and epistemology

a) Interpretivism

In the interpretivist's methodology, the key is to understand, not to explain and predict as in the naturalist's methodology. As a method, understanding must begin from the presupposition that there is at least some common ground between the researcher and the researched. Understanding begins from commonality; in particular, from shared experience that requires the researcher to empathise – something from its own lived experiences.

b) Ontology

Tom Gruber (1993) defines ontology as, “an explicit specification of a conceptualization.” A body of formally represented knowledge is based on a conceptualization of the objects, concepts, and other entities that are assumed to exist in some area of interest and the relationships that hold among them (Genesereth & Nilsson, 1987)

Ontology can be referred to as a particular system of categories accounting for a certain vision of the world. As such, this system does not depend on a particular language. Aristotle's ontology is always the same, independently of the language used to describe it. Ontology refers to an engineering artefact, constituted by a specific vocabulary used to describe a certain reality, plus a set of explicit assumptions regarding the intended meaning of the vocabulary words (Nicola Guarino, 1995).

The ontology of this research is framed within the administrative management domain where bureaucracy determines the kind of leadership styles school principals may adopt. In this field of administrative management, domain, particularly in schools, presents a unique kind of behaviour; the language used, the way they interpret their working spaces or do certain things is peculiar to that environment.

c) Epistemology (theory of knowledge)

Epistemology is the study of the valid forms of knowledge. It comes from the Greek "episteme" which means knowledge. Theory of knowledge, of the methods or grounds of knowledge, refers to what is known and who can know – assumptions about the nature of truth. What kinds of knowledge are possible (and accepted), how do we go about obtaining or producing that knowledge? Epistemology is the study of the nature, source, limits, and validity of knowledge (Dworkin, 1986).

- Knowledge is derived from everyday concepts and meanings, i.e. common sense terms and typical situations.
- The researcher enters the everyday social world (e.g. through participation observation) in order to grasp the socially constructed meanings and then reconstructs these meanings in a social scientific language.

Interpretivism takes what positivism, empiricism and critical rationalism ignore – that is, the meanings and interpretations, the motives and intentions which people use in their everyday lives and which direct their behaviour. For interpretivism, the social world is the world perceived and experienced by its members, from the inside. Hence, the task of the researcher is to discover and describe this insider view, not to impose an outsider's view on it. It is the everyday beliefs and practices, the mundane, tacit and taken for granted that have to be grasped and articulated in order to provide an understanding of these actions.

Therefore, the researcher may have to resort to procedures (e.g., challenging questions and deliberating acting against the norm) that encourage this reflection in order to discover the meanings and theories. The idea is to actively interact with the participants in their own set-up in order to understand the way they operate, interact with each other and ultimately how they translate and implement law. In this instance the research strategy is based on interpretation and understanding.

1.10 Qualitative case study research approach

A qualitative case study is a "...intensive, holistic description and analysis of a single instance, phenomenon or social unit" (Merriam, 1988). Walcott (1992) sees it as "... an end product of field oriented research rather than a strategy or method". In this instance the case is the judgment in *Minister of Education v Harris* 2001(4) SA 1297(CC), which has a direct or indirect legal bearing on the way principals adopt correct procedures and proceedings in making decisions at school level. The research tested how this single instance affected their decision-making strategies and/or processes in their effort to implement policies as well as how they administered case law.

The analysis endeavoured to understand in depth how the participants worked with case law in their own environments. The key concern was understanding the participants' perspectives, not mine.

Airasian *et al.* (2003), identify five characteristics that provide the central focus and understanding of a qualitative research process in a social setting or activity as viewed from the perspective of the research participants:

- The sources of data for qualitative research are real world situations, natural, non-manipulated settings.
- Data are descriptive. Data in the form of interview notes, observation, records, documents and field notes are the basis for analysis and interpretation.
- Qualitative research emphasises a holistic approach, focusing on processes as well as final outcomes. The researcher is immersed in the details and specifics of the setting.
- Data are analysed inductively; that is patterns are established and relationships are developed collecting or observing multiple specific instances.
- The researcher strives to describe the meaning of the findings from the perspective of the research participants and not of the researcher.

The guiding principle for a researcher is “uniqueness” and “particularity”. Throughout the process, participants are confined to their settings or contexts. Every setting was unique to participants and may not be replicated, thus making my task one of describing participants' understanding of their own unique reality. The main purpose was to take a holistic stance in order to look at the overall context to obtain and guide my understanding. I had to avoid making premature decisions or assumptions about the study. I had to spend time with the

participants in their own setting, making them feel part of the research so that reliable data can be obtained.

1.11 The research methods

1.11.1 Literature review

A literature review involved systematically identifying, locating and analysing documents containing information related to the research problem. This entailed a thorough analysis of documents such as articles, abstracts, reviews, monographs, dissertations, books and other research reports and electronic media.

The Education Laws Amendment Act, 50 of 2002 amended the South African Schools Act, 84 of 1996 to give clarity and certainty concerning the admission age to Grade R and 1 at public and independent schools. Section 5 (4) of SASA was amended to read as follows:

- (4)(a) The admission age of a learner to a public school –
- (A) Grade R selected four (4) turning five (5) by 30 June in the year of admission;
 - (ii) Grade 1 is age five (5) turning six (6) by 30 June in the year of admission.
 - (b) Subject to the availability of suitable school places and other educational resources, the Head of Department may admit a learner who –
 - (i) Is under the age contemplated in paragraph (a) if good cause is shown;
- and
- (ii) Complies with the criteria contemplated in paragraph (c).
 - (c) The Minister may, by regulation, prescribe
 - (i) Criteria for the admission to a public school at an age lower than the admission age, of an underage learner who complies with the criteria.¹

¹ It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable, effective and their proper

- (ii) Age requirement of different grades at a public school.
- (d) For the purpose of paragraph (b) (1), “good cause is shown” means that :
 - (i) It can be shown that exceptional circumstances exist which necessitate the admission of an underage learner, because admission would be in his or her best interests; and
 - (ii) Refusal to admit that learner would be severely detrimental to his or her development.

As a result of the amendment, the minimum age of admission has been lowered by six months. The compulsory school-going age remains seven (7) to fifteen (15) or until completion of Grade 9 (Department of Education, Annual Report: 2003-2004). If the Department of Education had confidence in the competency of principals to interpret and implement intricate legal and policy issues adequately, they would not have encouraged parents to phone directly for clarification.

I reviewed literature that specifically discussed the interpretation and implementation of empowering provisions including the case law particularly at school level and in education in general. This informed the theoretical and conceptual writing in the area I was intending to investigate.

The prime objective of this literature review was to explore the craft-competence and craft-literacy of school principals and to analyse the extent to which craft-competence and craft-literacy as defined from a theoretical point of view were

implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that –

- (a) learners are admitted on an equitable basis;
- (b) there is no unfair discrimination to learners;
- (c) the admission is fair to the individual learner as well as other learners in the classroom;
- (d) recognition is given to the diversity of language, culture and economic background;
- (e) notice is taken of the differences between urban and rural environments; and
- (f) the physical and psychological and mental development of the child is taken into account.

addressed in the selected studies. Literature dating back to 1985 was scrutinised and a content analysis on the items of the selected studies was made. The self-report questionnaire was the most common instrument utilised and two instruments specifically designed to measure effective management at school level were implemented.

These instruments, self-reporting and open ended questionnaires, lacked profound validity testing. In most of the literature review the focus was on the role and task of a school principal and on what constitutes an effective school using the achievement of goals as a yardstick. Literature on education law and policy discuss legal instruments that affect the education system in general, but there is very little evidence of literature that look at the craft-competency and craft-literacy of principals in the way they handle legal instruments at school. The contents of the communication by the Liaison Officer of the Department of Education (see annexure 2) contradicts the statement contained in the annual report by the former Director General who states that the age of admission was reduced by only six months effectively confirming that the requirements remain the same.

1.11.2 Interviews

There are different types of interviews such as structured, standardised, in depth, ethnographic, elite, life history, and focus group and semi-structured. Cohen *et al.* (2002) and Marshall & Rossman (1999) define an interview as “...a conversation with a purpose. It is a useful way of getting large amounts of data quickly”.

I used scheduled semi-structured interviews with public school principals, deputy principals and members of the school management team on how they came to know about case law as one of the empowering provisions at school. Critical to the effective administrative management process is the fundamental

understanding of what gives the principal the power and authority to take a particular decision. All those legal instruments available at school for principals to utilise collectively form a host of empowering provisions. Principals, their deputies and members of the school management team are naturally expected to be in the forefront in making decisions that shape the nature and character of the leadership focus. I also attempted to determine their knowledge about just administrative action as well as how they complied with it as they interpreted and implemented case law at school level. Follow up questions were asked in order to validate, triangulate and authenticate the quality of responses. I was able to adjust the questioning techniques as well as questions in order to obtain accurate information as the process progresses.

1.11.3 Questionnaires

After phoning the school principals, questionnaires were hand delivered to the selected schools where explanations of the procedures were also given. The questionnaires contained questions of personal nature on principals' administrative responsibility as well as the respondents' knowledge of case law.

Face-to-face questionnaires (interview questionnaires) were used because they enabled me to be in contact with the respondent. I recorded with the permission of the principal all the responses he/she made. Follow up questions were made in order to clarify certain responses and for triangulation purposes. Results of the responses were discussed with the school principals and his/her consent requested before conclusions were made.

1.11.4 Document analysis

The reflectico-appraisal inventory log book method was discussed with school principals. It entailed recording what they perceived to be decisions

based on the empowering provisions available at school. Entries were made on a daily basis as part of their administrative functions. This was done over a period of four weeks.

The reflectico-appraisal inventory log method was a measuring instrument that was meant for principals to record what they considered administrative actions taken at school level on a day-to-day managerial basis. In the process of setting out management plans, principal were expected to identify and subsequently classify those decisions into legal or general nature. Before making any clarification in the process of compiling the record of information, they were requested to indicate whether legal advice of any nature was ever sought from any source. The principal also explained how such outcomes were to be achieved. Principals stated how they came to know about law and how they worked with it. Principals appraised themselves at the end of one month whether the outcomes have been achieved or not. The idea was for principals to reflect constantly on their performance as regards the administration of law at school level by constantly appraising their management efforts and recording their decision-making strategies. The reflectico-appraisal inventory log method sought to gather data on how school principals adopted just administrative actions when making decisions. The log also explored principals' ability to classify decisions as decisions of a general nature or as decisions of a legal nature. It also endeavoured to identify legal instruments they used to help them adopt just administrative actions. By interacting with, as well as interviewing principals, I was able to reach an informed conclusion concerning their competencies in handling issues of legal nature. I was also able to triangulate by organising structured and unstructured interviews with them as well as members of the SMT (school management team).

The school management team minute books were also requested for analysis purposes. Decisions arrived at in previous meetings were looked at closely. Particular attention was paid to the types of decisions, whether they were of general or legal nature.

1.12 Data analysis

McMillan & Schumacher (2001) define data analysis as primarily an inductive process of organising data into categories and identifying patterns and relationships among these categories. Most of these categories emerge from the data rather than being imposed on the data prior to data collection. Therefore the data from semi-structured interviews, face-to-face questionnaires (interview questionnaires) and the analysis of documents (reflectico-appraisement inventory log method and SMT minute books) were closely analysed and broken down into categories to provide meaning to the findings and conclusion of the study.

According to Mark (1996) data analysis is the process that involves working with a large set of numbers. Numbers refer to data that is collected from a number of participants that must be systematically classified and analysed. The data collected in this manner is raw and one needs to sieve it in order to answer the research questions.

Marshall & Rossman (1999) define data analysis as: “The process of bringing order, structure and interpretation to the mass of collected data”. They proceed to identify six phases of data analysis:

(i) Organising data

Data collected from interviews schedules, questionnaires and the analysis of documents was organised and later analysed. A computer and data storage file were used to organise and store data. Each response was organised separately and later compared with other responses from different schools.

(ii) Generating categories, themes and patterns

Information acquired was categorised into groups to show similarities and differences for easier identification of emerging patterns.

(iii) Coding data

Data was coded for easier identification of similarities and differences relating to the information received.

(iv) Testing emergent understandings

In this phase the fundamental procedure was to ascertain whether the respondent correctly understood the requirements as well as interpretation or whether I understood the responses. I, with the assistance of a computer, identified difficult words, found and explained their relevant meanings. I further consulted with the participants to ascertain whether the definition of terms was contextually correct.

(v) Searching for alternative explanations

Some words or responses were difficult to understand and therefore ways and means of understanding and interpreting these were initiated.

(vi) Writing the report

After making sense of the recorded data, I had to compile and write a report on the findings and conclusions of the study.

The above phases served as guidelines for analysing the data collected in this project.

1.12.1 Content analysis

According to Titscher *et al.* (2000) content analysis is the longest established method of text analysis among the set of empirical methods of social investigation. Babbie (2001) sees it as the study of recorded human

communications. Babbie goes on to state that it is essentially a coding operation. Coding is the process of transforming data into a standard form. Ryan & Bernard (2000) view it as one of the major coding traditions. It would appear then that coding is the heart and soul of text analysis. Gilham (2000) describes it as a process of “identifying substantive statements – statements that really say something”. More specific to this qualitative research, Bryman (2004) defines qualitative content analysis of documents as a process of searching out of underlying themes in the materials being analysed.

Content analysis is a research technique for taking replicable and valid experiences from texts (or other meaningful matter) to the contexts of their use. As a research technique, content analysis provided new insights, increases a researcher’s understanding of particular phenomena or informs practical actions. Content analysis is a research tool. Techniques used are supposed to be reliable and their result findings should be replicable.

The approach to the analysis of documents included the construction of the meaning of and in texts (minute books, reflectico-appraisement inventory log books and other documentary evidence available). There was an emphasis on allowing categories to emerge out of data and on recognising the significance for understanding the meaning of the context in which an item was being analysed (and the categories derived from it) (Bryman, 2004).

1.12.2 Discourse analysis

Discourse analysis can be interpreted as referring to a detailed analysis of language in use, whether it takes form of speech or in texts. In practice, it is almost always text which is analysed, since speech is usually transcribed from audio or video recordings for analysis (Hammersly, 2002).

One of the first views on discourse analysis considers it as a form of spoken dialogue and in contrast to written texts (Sinclair, 1975). Discourse analysis entails more than a combination of both spoken and written texts of any kind. Hardy (2001) defines discourse analysis as “a system of texts that brings objects into being”.

The goal of the discourse analysis therefore is to explore the relationship between discourse and reality, interpret a hidden meaning and mediate it between the past and present. The concrete representation of discourse is texts or discursive units. For example, formal written words, spoken words and social interaction with the participants provided me with ample evidence to explore for the purposes of gathering more relevant data for analysis; “...that one to one correspondence exists between a word (encoding of information) and its meaning (decoding of information)” (Zajacova, 2002), and it is, “intelligible in its interpretations and explanations” (Titscher *et al.*, 2000). Intelligent guesses by the researcher need to be carefully done in order to reach the most appropriate and correct conclusions. Discourse analysis was done on the texts in the form of minute books, reflectico-appraisal inventory log method books, responses to both structured and unstructured interviews, responses to questionnaires, direct, external legal One of the strategies used to promote qualitative research validity (Johnson, 1997) was used. Johnson identifies the participant feedback strategy. In this strategy I discussed the interpretations and conclusions with the actual participants and other members of the participant community for verification and gaining more insight.

1.13 Sampling

Research sample included 10% of randomly selected both primary and secondary schools in Ekurhuleni West, (Gauteng Province) District 6. A stratified sampling method was employed. The schools were divided into strata. Stratum A represented secondary schools and stratum B primary schools. The

population comprised 380 schools and the final sample was 10 schools (both primary and secondary).

Number of high schools: 127

Number of primary schools: 253

$$\begin{aligned} \text{The sample needed was } & \frac{127}{380} \times \frac{10}{1} \\ & = 3 \text{ high schools} \end{aligned}$$

$$\begin{aligned} \text{Number of primary schools } & \frac{253}{380} \times \frac{10}{1} \\ & = 7 \text{ primary schools} \end{aligned}$$

A random sampling technique was employed to identify schools to be included in research.

- (i) 3 secondary school principals and the school management teams.
- (ii) 7 primary school principals and the school management teams.

The actual selection of schools also took into account the convenience factor as well as the cost involved in travelling. The procedure involved travelling to every site three times minimum. This explains why there were seven (7) former model C schools (70%) in the sample. It also gave me an opportunity to compare the performance of principals of former model C schools to those of former DET.

1.13.1 Site

Education law generally regulates activities and relationships in institutions that deal with education. These institutions included public schools. Of particular importance is to note that admissions policy affects the enrolment of learners in schools. The research centred on the translation, interpretation and subsequent implementation of the admissions policy at school level. Ten schools were randomly selected from Ekurhuleni West, District 6 in Gauteng Province. The following schools are located in Kempton Park and Tembisa townships. Table 1.1

and annexure 7 provide information on the size, area, management and status of the selected sample.

Table 1.1 Status of selected sample

Stratum	Principal	Number of H.O.D	Deputy principals	Number of learners	Number of educators	Location	Former category
Q	1	7	2	1 478	56	Kempton	Model C
R	1	3	1	1 213	36	Kempton	Model C
S	1	7	2	1 750	65	Kempton	Model C
T	1	7	2	2 568	65	Tembisa	DET
U	1	3	1	1 211	34	Kempton	Model C
V	1	3	1	1 013	32	Kempton	Model C
W	1	3	1	960	31	Kempton	Model C
X	1	3	1	1 214	35	Kempton	Model C
Y	1	3	1	1 520	41	Tembisa	DET
Z	1	3	1	1612	43	Tembisa	DET

1.13.2 Participants

School principals, deputy principals and two members of the school management team from each of the above stated schools were included in the research.

1.14 Unit of analysis

The research determined whether school principals were craft-competent and craft-literate in the way they adopted correct administrative actions in the process of interpreting and administering case law at school level. It also determined

whether the principal understood what case law authorised or allowed them to do and what it prohibited them to. The unit of analysis was therefore how principals dealt with administrative actions.

1.15 Delimitation

The research covered only 10% of District 6, Ekurhuleni West urban schools in Gauteng Province. This translated to 7 primary and 3 secondary schools. Only 10 principals and their deputies as well as 20 school management team members were included in the study. The findings did not necessarily reflect any resemblance to schools in the peri-urban or rural schools. School Governing Bodies were left out as the focus was on principals working with case law. The Department of Education was also excluded as a different study might be undertaken sometime in future. Teachers were excluded as in most cases receive instructions from management.

1.16 Limitations

The following are some of the limitations of the study hereby discussed in point form:

- The research covered only (10) schools in Ekurhuleni West district which amounted to a small sample.
- All these schools happen to be situated in an urban environment and excluded schools in the rural setup.
- Other stakeholders such as teachers, learners, governing body members and the Department of Education were left out.
- The research only looked at the translation and interpretation of case law and did not include other laws in general.
- The aim was not to generalise on how principals work with laws and policies in schools but to use the interpretive case study to determine the

- craft-competency and craft-literacy of these professionals in the way they handle case law.
- There was a preponderance of former model C as compared to former DET schools.

1.17 Trustworthiness/reliability

Trustworthiness as a criterion to test the quality of research design was the guiding principle during the entire research. Because interpretive validity is obtained to the degree that the participants' viewpoints, thoughts, intentions, and experiences are accurately understood and reported by the qualitative researcher, the participants were visited in their natural employment settings in order to observe, describe, analyse, interpret and understand how principals worked with law and policy. It was much easier to clarify certain issues there and then without having to wait for some other time.

Patton (1990) points out that these are not "absolute characteristics of qualitative inquiry, but rather strategic ideals that provide a direction and a framework for developing specific designs and concrete data collection tactics". These characteristics are considered to be "interconnected" (Patton, 1990) and "mutually reinforcing" (Lincoln & Guba, 1990). It was also important to use five different data collection techniques in order to enhance the quality of data collected by augmenting as much information as possible. Clarification of data was compensated by gathering as much data as possible so analysis was made much easier. Permission was also requested from and subsequently granted by the University of Pretoria.

1.18 Ethical considerations

Participation in the research was voluntary. Participants were at liberty to withdraw from the research at any time should they so wished. Research participants were at all times fully informed (informed consent) about the

research process and purposes and gave consent for their participation in the research. Safety in participation was of paramount importance. Human respondents were never at any time placed at risk or harm of any kind. Confidentiality and anonymity of human respondents were protected at all times. Human respondents were not subjected to any acts of deception or betrayal in the research process or its published outcomes (trust).

Before the research could commence, I explained fully to the participants that they took part in the research on a voluntary basis and they were free to withdraw anytime should they so wished. I further assured them that they would be kept informed about all the research processes and stages. Permission was first sought from them at all times before proceeding with research at crucial stages. I assured them that their safety as well as the information provided by them would be kept in strictest confidence and would only be used for the purposes of accomplishing the research. Fundamentally I tried to cultivate a relationship of trust and collegueship and to embed myself within the social set-up in order to win their support. After the collected data was analysed, I further consulted with the participants, seeking their approval before findings could be published. Honesty and transparency was key to the successful execution of this research.

1.19 Time frame

Eight months was projected for the completion of the study.

1.20 Structure/Chapters

1. Chapter 1: Introduction and rationale

This chapter deals with the general introduction of the research project. It focuses on the main questions and aims of the study

- Introduction
- Statement of purpose
- Background/contextualisation
- Problem statement
- Research question
- Sub questions
- Working assumption
- Significance of the study
- Theoretical underpinning/concept analysis
- Key concepts and their clarification
- Research design
- Ontology/epistemology
- Interpretivism/ontology and epistemology
- Qualitative case study research approach
- Research methods
 - Literature review
 - Interviews (structured and unstructured)
 - Questionnaires
 - Document analysis
 - Reflectico-appraisal inventory log method
- Data analysis
- Content analysis
- Discourse analysis
- Sampling
- Site
- Participants
- Unit of analysis
- Delimitations
- Limitations
- Trustworthiness/reliability

- Ethical considerations
- Time frame
- Conclusion

2. Chapter 2: Craft-competency and craft-literacy: Pre-requisites for the lawful administration of case law and other empowering provisions

The chapter provides an in-depth exploration and explanation of the two concepts, craft-competency and craft-literacy in context. It closely looks at the relationship, co-relation and their functions as applied in administrative practices at school level.

- Introduction
- Historical background
- Craft-competency and craft-literacy in administrative management in public schools
- Contextual reason for proper compliance
- Minimum requirements for appointment of principals
- Just administrative action and empowering provisions
 - Just administrative action
 - Decision by an organ of state, a private person or body
 - Main characteristics of administrative action
 - Empowering provisions
- Case law and the principal in a democracy
- Conclusion

3. Chapter 3: Research design and methodology

Explanation of the methods utilised to collect data, sampling and data analysis are provided in this chapter.

- Introduction
- Mode of enquiry

- Research definition
- Qualitative case study research approach
- Characteristics of qualitative research
- Criteria for trustworthiness and ethical consideration
- Sampling
- Data collection techniques
 - Literature review
 - Interviews
 - Questionnaires
 - Document analysis
 - Reflectico-appraisal inventory method
- Data analysis
 - Guidelines on data analysis
 - Coding and analysis of qualitative data
- Conclusion

4. Chapter 4: Major research findings

Major and relevant findings are detailed in this chapter. Interviews, questionnaires and document analysis are coded, put into categories and findings explained.

- Introduction
- Content and discourse analysis
- Major findings through questionnaires
- Major findings through document analysis
- Major research findings through interviews
 - General questions
 - Just administrative actions
 - Translation and interpretation of law into practice
 - Empowering provisions
- Conclusion

5. Chapter 5: Overview, findings, conclusions and recommendations

This chapter deals with the general overview, findings, conclusions and recommendations of the study.

- Introduction
- Overview
- Findings
- Conclusion
- Limitations
- Significance of study
- Recommendations
- Recommendations for improvement of study
- Recommendations for further study
- Conclusion

6. References and Appendices

1.21 Conclusion

Craft-competency and craft-literacy are fundamental pre-requisite skills school principals need to acquire in order to be able to take administrative actions that are lawful, reasonable and procedurally fair. Section 195 (1) of the Constitution of the Republic of South Africa of 1996 stipulates that: “Public administration must be governed by the democratic values and principles enshrined in the Constitution”. To give impetus to the stipulation, PAJA Act, 3 of 2000 was enacted as contemplated in section 33 of the Constitution. Principals are expected by law to make informed decisions under empowering provisions since they fall under the category of public administrator. They are by law supposed to base their decisions on the legal instruments provided for at school level.

These could be in the form of policies, circulars, signed contracts, and national and provincial legislation, among others.

It is important to determine how school principals translate law into practice. What makes school principals succeed or fail in the process of interpreting and implementing law and policy? School administrative management is gradually becoming more technocratically demanding and only principals with the requisite skills will be able to translate legal instruments into practice correctly, thereby reducing chances for opportunistic litigation. A large number of cases brought before courts provide ample evidence, which is indicative of the problems experienced in interpreting and implementing policies and law in the Department of Education, schools included.

The project aims at finding out how principals translate judgments into practice and to determine what makes them succeed or fail in this process.

Chapter 2: Craft-competency and craft-literacy: Pre-requisites for the lawful administration of case law and other empowering provisions

2.1 Introduction

If the education system is to play a significant role in development, it should be able to train adequate numbers of competent personnel to assume key managerial, administrative, technological and professional responsibilities in the public and private sectors of the economy. It is an open secret that some Third World Countries, of which South Africa is one, with well established systems of education, remained underdeveloped.

An important reason for maladies in education systems is perhaps lack of craft-literacy and craft-competency on the part of the educational administrators in the post-colonial state. The conventional public view is that principals are competent professionals who are able to dispense their administrative knowledge and skills in compliance with all the legal procedures as informed by the empowering provisions. The study was meant to determine the effectiveness of principals in the correct adoption of administrative actions in public schools.

The Promotion of Administrative Justice Act (PAJA), 3 of 2000 states its purpose as follows: 'To give effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution of the Republic of South Africa, 1996; and to provide for matters incidental thereto'. In order to comply with a host of legal instruments that find direct or indirect application in education, school principals' decisions are guided by empowering provisions such as the Constitution, PAJA, the Schools Act and other related laws at their disposal.

This chapter seeks to identify and discuss two key prerequisite skills needed by the school principal in order to adopt administrative actions that are lawful, reasonable and procedurally fair, correctly. Contextually and conceptually, these key fundamentals are craft-competency and craft-literacy. The peculiar and growing penchant for settling educational issues through litigation complicates the professional functions of school principals. This growing phenomenon puts school principals under immense pressure to improve their performance. In order to respond to these pressures or challenges, school principals may find themselves on a collision course with the demands for fairness and accountability in a democracy.

Conversely speaking one wonders what public school principals are expected to do when expending their duties. In practice, one can only administer what can be prescribed either by oneself or somebody else. In a hospital, for example, a doctor prescribes medicine to a patient. A nurse is then expected to give a patient the prescribed medicine either in the form of drugs or an injection. The entire process of consultation, diagnosis, prescription, drug dispensing right up to the administration of an injection needs to be carefully managed. Principals by virtue of their professional functions administer policies and law in schools. The entire process of decision-making needs to be carefully managed. The failure to follow due process to the book might expose themselves to numerous legal litigation challenges.

J.J. Rousseau, the 18th century historian, once said: “Man is born free and is everywhere in chains”. By the same token, school principals work with a number of empowering provisions, such as policies, circulars, regulations and laws among others and are expected to contextually translate, interpret and implement laid down procedures. This process of administration requires effective management strategic plans in place. Principals are not entirely free to do as they like because their actions, behaviours and conduct are restricted by legal instruments with which they are supposed to comply.

2.2 Historical background

In April 1994, centuries of struggle against colonial and apartheid rule culminated in a peaceful transition to democracy. Fear was replaced by hope, repression by democratic freedom, exclusion and division by the possibilities of inclusiveness and unity. A massive national project to take down the scaffolding of apartheid and replace it with a system that promised well being, respect, and expression for all South Africans began. “The project challenged us to rethink every aspect of our nation, from concepts of democracy, justice and prosperity, to the Constitution and its expression in policies, law and management. It challenged us nationally and personally to reconstruct our basic understanding of what it means to be South African”(Asmal, 2001).

The implications are that pre-1994 governance of schools was vested in governing bodies and/or some parent/teacher associations whose operations were strictly controlled by the Head of Education. Chapter 2 section 7 of the Education Affairs Act (House of Assembly) 70 of 1988, states;

Except in so far as this Act provides otherwise, the Department shall, subject to the control and instructions of the Minister, be responsible for the management and control of public schools and hostels.

Administrative action was therefore the preserve of the government elite. Power, mandate and authority of translating and implementing public policy and law lay in the hands of the Executive Director of Education. Principals primarily functioned as an extension of the Head of Department by implementing directives from the Department of Education. There is reason to suspect that this centralisation of control was by and large influenced by the political need to direct and control what was to be taught in schools.

Post 1994 the Constitution, as directed by its expression in policies and law, the decentralisation of power and authority require public school principals who are craft-competent and craft-literate in translating and implementing law and policies without having to constantly refer legal matters to the department and other bodies. The mandate of managing schools should emanate from the empowering provisions available. The national law, The Promotion of Administrative Justice Act, 3 of 2000 was promulgated to give effect to the expression of the Constitution of 1996 that of making certain that administrative actions taken by public entities are in line with law.

2.3 Bureaucratic leadership in a public school

Connelly *et al.* (1987) define leadership as “the process of influencing the activities of an organised group in efforts towards goal setting and goal achievement”.

Koontz *et al.* (1984) define the managerial function of leadership as “the process of influencing people so that they will strive willingly and enthusiastically towards the achievement of the organisational goals”

Svilagyi (1981) says: “Leadership is a process involving two or more people in which one attempts to influence the other’s behaviour towards the accomplishment of some goals”.

Fink & Resnick (2001) assert that professional development is not separate from administrative duties and responsibilities; rather, it should be considered the centrepiece of exercising effective leadership that is committed to improving student learning.

Drawing from the definitions, it is clear that leadership is a process which involves other people and the influencing of those people by the leader to direct

their behaviour towards the accomplishment of a set of attainment goals. Leadership as a process implies that it is an ongoing activity. It is not static nor is it an event. It involves continuous interaction. On the other hand, influence implies convincing other people to see one's point of view without coercion. Goal directedness means that people are focused on the achievement of set goals.

Bennis (1989) once remarked: "To an extent, leadership is like beauty: It is hard to define, but you know it when you see it". The statement strikes to the heart of the leadership/administration dichotomy and to the dilemma of those who prepare leaders for the changing demands and cultural norms of the new democracy. Suffice it to state in brief that those who are charged with the responsibility of selecting principals should endeavour to identify individuals who are able to learn and adapt quickly in order to effectively manage schools in a democracy.

While leadership implies influencing others in an organisation to work towards set goals, the question arises as to what guides the leader to act or lead the way he/she does. The leader has to have power and authority. Power is the ability to mobilise resources to get things done (Hansen, 1979). Influence includes virtually any interpersonal transaction which has psychological or behavioural effects (Hansen, 1979). For the leader to exert any meaningful influence in an organisation and for that influence to be readily accepted, his or her actions must be based on authority. Authority is the right to act or to require others to act on behalf of an organisation. It is institutional power. Sergiovanni (2002) defines authority as "the willing compliance of people based on the belief that it is legitimate for the designated leader to impose his or her will on subordinates". Difficulties may arise when, for instance, the leader lacks the expertise, skills, knowledge and experience to back up his or her authority.

Principals are viewed by the stakeholders, namely teachers, parents, learners and other role players as professionals who are knowledgeable, skilled and

experienced in the management of organisations. In a bureaucratic institution such as a public school, administrative management is driven by legitimate power and authority guided by empowering provisions such as policies, law, contracts and other rules and regulations. Conduct, actions or inactions, operations, behaviour and the general thrust of management in schools are confined within the realms of laid down procedures and other provisions.

In a democracy, dispensations are guided by the rule of law. Only craft-literate and craft-competent principals will function effectively in public institutions. School principals are expected to make rational decisions driven by legitimate power and authority in order to influence those in their charge to direct their energies towards accomplishing goals set. In a democracy, public democratic dispensations need to be driven by competent technocrats. The decision-making process should be made within the given legal framework. It is clear at this juncture that principals must be knowledgeable, skilful, experienced and also confident to craft legitimate and legally compliant decisions. The administrative actions they take are “shackled”, meaning they are not entirely made freely but must abide by legal instruments. Experienced and competent principals are able to craft administrative actions¹ based on legitimate empowering provisions as is the norm in a bureaucratic administrative practice.

Sergiovanni (2002) suggests that the practice of followership provides the basis for leadership and that leaders play a vital stewardship or servant hood role. The role of a principal, among others, involves working with the law on a day to day basis in pursuance of intended outcomes.

¹ Administrative action - Any decision taken or any failure to do so by the school principal to implement his/her power/authority or carry out his/her duties in terms of the law.

2.4 Craft-competency and craft-literacy in administrative management in public schools

As stated in Chapter 1, the focal point of this research is to determine the levels of craft-competency and craft-literacy on the part of school principals regarding the adoption of correct administrative actions. It is important at this juncture to explain the conceptual and contextual use of the two concepts, namely craft-competency and craft-literacy, in this research. As a starting point, the word 'craft' is synonymous with a skilled artisan who uses his/her tools of trade in carving out items of good quality to the envy of other fellow human beings. This unique and rare ability to carve an article of good quality is either innate or acquired through mentorship or practice over a period of time. Administration, particularly public administration needs creative technocrats who can craft enabling administrative processes that facilitate effective administrative management and leadership practices.

Black (n.d.) in Oosthuizen *et al.* (2003) defines administration as:

acts which are necessary to be done to carry out legislative policies and purposes already declared by the legislative body or such as are devolved upon it by the organic law of its existence.

"Educational administration is the management of institutions designed to foster teaching and learning" (Campbell *et al.*, 1983). Administration is not only concerned with fostering teaching and learning; it is more complex than that. Administration is a systemic process of managing the affairs of an organisation such as a school or any institution with well defined outcomes. To administer refers to a conscientious effort to direct or control, apply formally, execute, dispense, perform, etc. In this process of administration, a scientifically crafted management model has to be in place to ascertain that whatever is to be driven towards a specific outcome, the practices are not tainted with what could be

construed as irregular or improper acts. In short, the administrative process has to be carefully managed. For example, at school level, in order for the principal to effectively comply with legal requirements and implement policy, the act of managing the process depends on a well crafted management strategy. To administer legal instruments that apply to education requires a management model that is crafted around working knowledge of the law.

Only craft-competent and craft-literate public school principals are able to proactively craft administrative management models that are effective enough to respond to the rigors of public administrative management in a dynamic democratic society. Public officials, who are able to correctly translate and implement legislative instruments as required by law, are better able to ward off legal challenges by aggrieved members of society and other affected organisations.

Craft-competency refers to the ability to understand and apply, with sustainable regularity, a model that has been developed by someone else. This is the common knowledge that is necessary for the sustenance of bureaucracies or formal organisations charged with implementing law and/or policies. School principals, by virtue of their job descriptions, are expected to comply with legislative instruments by taking decisions that do not transgress the law. This can only happen if a school principal is able to understand the content and context of the law and/or the policy. He/she will be in a better state of preparation to apply or abide by them. School principals, for example, from time to time receive circulars among other legal instruments from the Provincial Head of the Education Department with specific instructions and procedures. In most cases specific references are made to specific Acts and policies to refer to during the process of administrative management.

Craft-literacy on the other hand looks at the human capacity to conceptualise a successful policy or management process. Before setting up a formal

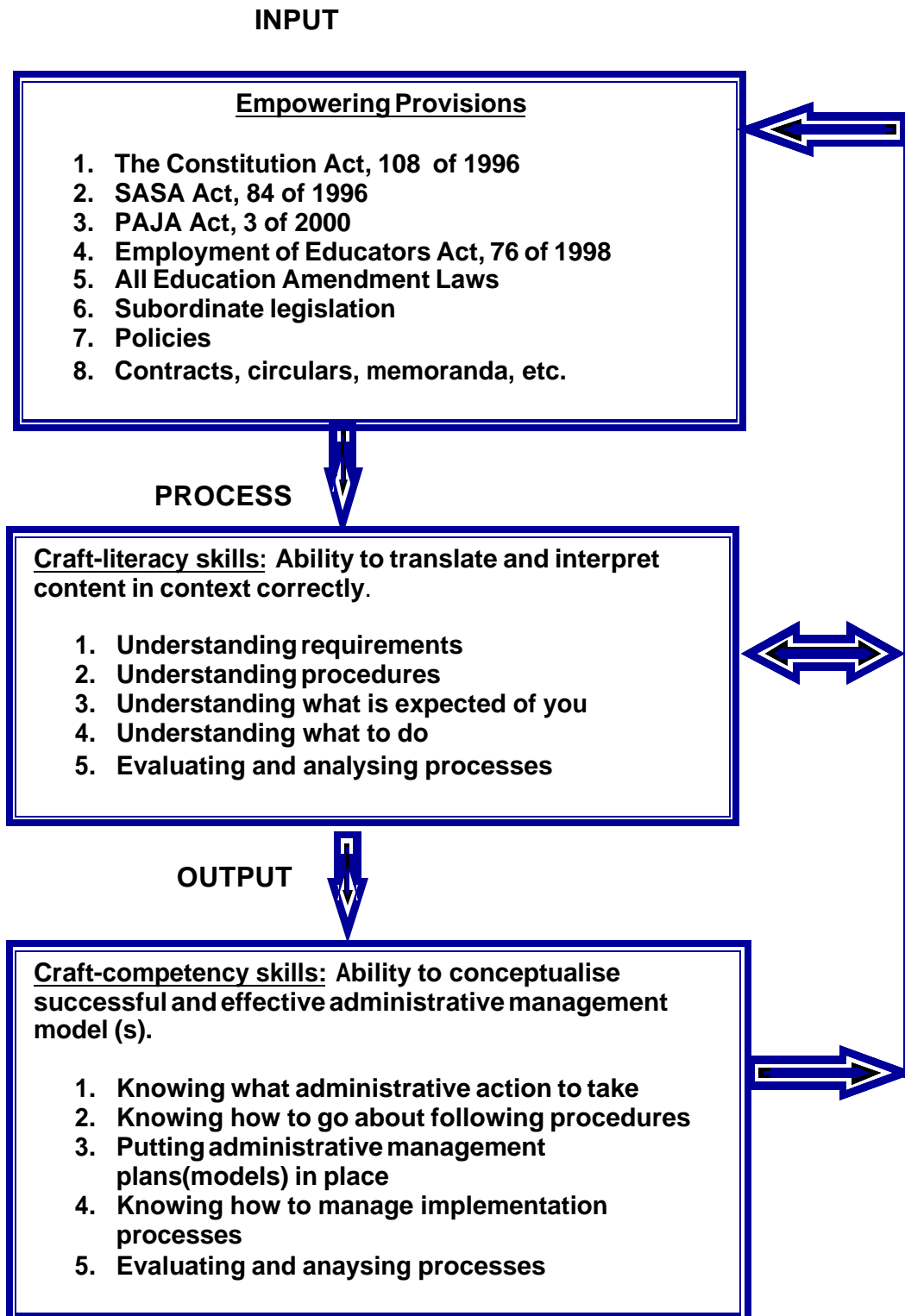
organisation, there must be a model for it. Similarly, before formulating a policy, there must be a model of the policy which spells out its procedural dimensions and requirements. The intellectual process of arriving at such a model is craft-literacy. The human ability to craft an effective management model as well as leadership strategies that could drive the administrative processes demands a craft-literate manager. The new democratic South Africa endeavours to “create a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action” (Promotion of Administrative Justice Act, 3 of 2000). Craft-literate principals are able to craft viable management plans that are compliant with the rule of law.

The current socio-political landscape encourages the ordinary members of society to take part in democratic discourse as well as participate in the implementation processes of democratic decisions thereof. Hence the decisions by a number of schools and the Departments of Education in the country are constantly being challenged in the courts of law. It is therefore incumbent upon school principals to take just administrative actions that comply with procedures in order to avoid such court challenges. Are public school principals craft-competent as well as craft-literate enough to craft just administrative intervention strategies and/or decisions that are lawful, reasonable and procedurally fair and will withstand such challenges by complying with the relevant empowering provisions to avoid very expensive and lengthy court challenges? An informed school principal inspires confidence among all the stakeholders including the community at large. Once a court precedent has been made by the court in the form of a case law, how do public school principals integrate such law in the administration of their schools? What do they learn from such case law? A public principal who is conversant with the law will be able to employ prudent intervention strategies in order to avoid recurring costly court challenges that might affect the smooth functioning of a public school.

One of the fundamental roles of a principal in a democratic country like South Africa is to interpret and translate guidelines as they are contained in the empowering provisions correctly. Principals receive a number of communications from the Department of Education, as stated earlier, for them to act upon in compliance with the provisions in the policies and laws at their disposal. They are, in turn, expected to translate and interpret written texts correctly and, in compliance with procedures, craft implementable actions and/or decisions by way of communicating lawful instructions to their subordinates. By following laid down procedures precisely, implies a clear understanding of lawful guidelines.

Diagram 2.1 illustrates the differences between craft-literacy and craft-competency.

Diagram 2.1: Difference between craft-literacy and craft-competency



The diagram shows that public school principals receive empowering provisions in the form of law and policies for them to work with during the process of managing their schools. Using their craft-competency skills they are able to translate and interpret (process) those policies and law correctly before deciding on what administrative action to take. Having thoroughly understood the fundamental requirements, principals are in a better position to move to the next level. The third level involves the ability to craft correct administrative actions (output) that determine what course of action to take. Effective administrative management decisions involve close analysis and evaluation of the entire process in order to make sure that correct decisions comply with the empowering provisions. Arrows indicate that should principals feel that decisions somehow do not comply with the procedures in the empowering provisions, they can always go back to check for errors of omission.

2.5 Contextual reasons for proper compliance

Current discourse on principals and their role takes place in the context of "effective schools" in a democracy like South Africa. The most effective schools have in common principals who take leading roles in the reform agenda in helping to shape the contours of education reform. Much of the drive behind creating a performance-based public education system comes from the fundamental assumption that, if schools are held accountable, principals and other stakeholders must strive to create effective productive teaching and learning environments, but must work within the given legal framework.

The judiciary plays an important role in interpreting as well as applying law. After the legal processes have been completed, the public officials, principals included, in their quest to promote a democratic, open, participative and accountable governance system, must ultimately comply with judicial decisions by taking their administrative actions in an acceptable and lawful manner. That way the courts help to interpret, test and refine laws. In other words courts can facilitate, hinder

or largely nullify the implementation of particular policies and laws through their decisions.

Particular administrative law comprises the legislation governing the legal principles and policies developed in respect of specific areas of administration. Section 33 (1) and (2) of the South African Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair and that everyone whose rights have been adversely affected by administrative action has the right to be given written reasons. The Promotion of Administrative Justice Act, 3 of 2000 in its preamble states that the purpose of the Act is *inter alia* to:

- Promote an efficient administration and good governance; and
- Create a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administration action.

This Constitution of the Republic of South Africa of 1996 gave birth to the South African Schools Act, 84 of 1996 which was intended to govern and regulate legal relationships as well as activities in the field of education. Since the promulgation of the supreme law (the Constitution) and other laws, a number of cases contesting the legality of policy and legal decisions taken by the Department of Education affecting the education of children, have been brought before competent courts of law for adjudication. Subsequent decisions sometimes compel the Department of Education to comply, by either re-visiting those policies with the intention of amending them in order for them to be in line with the provisions of the law or affirm the administrative action. One such case is CCT13/01 (*Doreen Harris v the Department of Education*).

On 18 January 2000 the Minister of Education published a notice under section 3 (4) (i) of the National Education Policy Act, 27 of 1996 stating that a learner may

not be enrolled in grade one in an independent school if he or she does not reach the age of seven (7) in the same calendar year. Talya Harris was part of a group of children who had enrolled at the age of three (3) in the King David pre-primary school, and had spent three years being prepared for admission into the primary school proper in the year 2001. The fact that her sixth birth day fell on 11 January 2001, made her ineligible to be enrolled. Challenging the validity of the notice, her parents sought a court order permitting her to be enrolled in Grade 1 in the year during which she turned six (6).

On 15 January 2001 in the Transvaal High Court, Mr Justice Coetzee declared the notice to be unconstitutional and invalid, and authorised King David Primary School to admit Talya to Grade 1. The judgment contained the following findings:

- The Minister's actions discriminated unfairly on the grounds of age against Talya and similarly situated children, were not justifiable, and accordingly violated the right to equality guaranteed by section 9 of the Constitution.
- By requiring Talya and other children in her position to repeat their final year of pre-primary school or to sit at home waiting for the year to pass, the Minister's actions unjustifiably violated section 28 (2) of the Constitution which provides that a child's best interests are of paramount importance in every matter concerning the child.
- The notice was *ultra vires* the powers of the Minister. In terms of Section 3(4) of the National Education Policy Act of 1996, the Minister was merely authorised to determine norms and standards in respect of a number of issues, including the age of admission to schools, but not empowered to make law.
- The Minister, being in the national government, usurped a provincial executive power in conflict with section 41 of the Constitution (Principles of co-operative government and intergovernmental relations) as well as section 125 (Executive authority of provinces) of the Constitution, when he stated in the notice that the age requirement had to be applied as an

additional prerequisite for registration of independent schools as determined by a provincial Member of the Executive Council (MEC).

- Finally, even if the notice was valid, it was so only to the extent that it enunciated national policy. Such policy was binding neither on private institutions nor on provincial education authorities, and accordingly could not provide any legal barrier to the admission of Talya to the King David Primary school in the 2002 school year.

The above case as well as other related ones which have been brought before courts of law challenging the Departments of Education decisions that negatively affected the teaching and learning of children in both public and independent schools is disturbing phenomena. More often than not the Department of Education ends up on the losing side. The question is whether public school principals are competent enough to play any significant role in the implementation of such complex court decisions. Most of these decisions directly or indirectly impact on the administrative functions of principals at school level.

2.6 Minimum requirements for appointment of principals

Smooth operation of an educational institution requires competent administrators. Education administrators provide instructional leadership as well as manage the day-to-day activities in schools in compliance with Constitutional requirements and other related legal provisions. Education administrators set educational standards and goals and establish the policies and procedures to carry them out (craft-literacy). They also supervise support staff, teachers, counsellors, librarians, coaches, and others. They develop academic programmes; monitor students' educational progress; train and motivate teachers and other staff; manage career counselling and other student services; administer record keeping; prepare budgets; handle relations with parents, prospective and current students, employers, and the community; and perform many other applicable duties.

Chapter B, paragraph 2.2 (a) (i) of The Employment of Educators Act, 76 of 1998, stipulates the minimum requirements for appointment of principals as follows: “In order to qualify for appointment as an educator a person must have at least a recognised three year qualification relative education qualification value (REQV 13) which must include appropriate training as an educator”. The Relative Education Qualitative Value (REQV 13) carries a minimum qualification of Grade 12 plus three (3) years apposite training. A principal gets appointed among educators (Post Level 1 and above) to manage the school. The assumption is that good educators would make good managers. This is not always true. The appointment is recommended by the Governing Body to the Department of Education for confirmation. At times some members of the SGBs are not adequately informed about what administrative management qualities to look for when appointing a new principal. If the school is new, the Head of Department does the appointment. For a principal to be appointed, she/he should have a minimum of seven (7) years of relevant experience.

School principals as managers *per se* are by law required to work with law as prescribed in the Employment of Educators Act, 76 of 1998. The duties and responsibilities of educators, in particular those of school principals, are detailed in Chapter 4 under paragraph 4.2 part (d):

- To ensure that the school is managed satisfactorily and in compliance with applicable legislation, regulations and personnel administration measures as prescribed.
- To ensure that the education of learners is promoted in a proper manner and in accordance with approved policies.

Chapter 4, paragraph 4.2 part (e) further stipulates the core administrative duties and responsibilities of the principal:

- To be responsible for the professional management of the school.
- To give proper instructions and guidelines for timetabling, admission and placements of learners.

- To ensure that Departmental circulars and other information received which affect members of the staff are brought to their notice as soon as possible and are stored in an accessible manner.

As principals begin to assume their prime responsibilities, those of leadership and professional management of schools, it is crucial that they know how to operate in public schools.

Public administration is characterised by bureaucratic forms of practices. The main features include among others:

- Clear-cut division of labour
- A hierarchical structure in which each lower office is under the control of a higher one.
- Control by rules and regulations which are impersonally administered (Lock & Farrow, 1982).

Principals, as administrators of public schools, rank at the lower end of the bureaucratic hierarchical administrative structure and receive instructions and professional management support from the Provincial Head of the Education Department concerned on a vertical relationship. Their function, among others, entails the extensive implementation of laws and policies as prescribed in the Employment of Educators Act, 76 of 1996, Chapter A, Section 4.2 (d) subsections (i) and (ii). Administrative management practices involve decision-making models which strive to comply with the rule of law. Such actions and/or inactions are forms of administrative actions.

2.7 Just administrative action and empowering provisions

Administration has to do with implementation and/or application, while management deals with established or establishing a model that informs the decision-making as well as the “what”, “how”, “why” and “when” of the management process. Administration is a function of management. An

administrator has to perform a set of recurring but fundamental tasks and these have to be accomplished by the school principal if the system is to be effective.

Van der Westhuizen (1990) points out that administrative managerial work consists of regulatory activities. “This implies that education *inter alia* involves regulatory activities which aim to ensure orderly interaction between interested stakeholders² in education” (Oosthuizen *et al.*, 2003). The nature and character of school management is such that the regulation of relationships and activities is guided by legal rules. The sources of these legal rules are *inter alia*:

- The Constitution of South Africa, of 1996
- National and provincial legislation on education
- Other legislation with direct or indirect bearing on education
- Subordinate legislation
- Common law
- Case law

Administrative management theory looks at organisations from the top downwards. It concerns itself with process or function. To the administrative theorists the concept of management applies to all forms of group activity such as schools. Almost all organisations involve certain processes like planning, organising, directing, coordinating and controlling (Hansen, 1979).

Principals’ decisions are at best based on the empowering provisions available in schools. The Education Department normally lends support on a regular basis by sending circulars and memoranda to public school principals on which to base their decisions.

² Stakeholder: A person or group with a direct interest, involvement, or investment in a school.

2.7.1 Just administrative action

Administrative action refers to any decision taken or any failure to do so by the school principal to exercise his/her power/authority or to carry out his/her duties in terms of the law. Administrative action is inherently a public function of a managerial process in a public school. Section 1 (v) of PAJA, 3 of 2000 defines decision as: “Any decision of an administrative nature made, proposed to be made, or required to be made, as the case may be, under an empowering provision, ... and a reference to a failure to take a decision must be construed accordingly”.

Is a public school principal an administrator as defined by PAJA? Section 1 (ii) of The Promotion of Administrative Justice Act 3 of 2000 (1) defines an administrator as an organ of state or any natural or juristic person taking administrative action. “The administrator is thus the person, body or official executing the administrative action or performing the public function, for example: Public functionaries performing administrative action (for example statutory councils and boards, Transnet, Telkom, public schools, universities and other functionaries)” (Burns, 2003). This definition by Burns applies to school principals as administrators in public schools. The Promotion of Administrative Justice Act 3 of 2000 (1) defines administrative action as: “Any decision taken, or any failure to take a decision, by

- an organ of state, when exercising a power in terms of the Constitution or a provincial constitution; or exercising a public power or performing a public function in terms of any legislation: or
- a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision, which adversely affects the rights of any person and which has a direct, external legal effect”.

“Decision means any decision of an administrative nature made, proposed to be made, or required to be made, as the case may be, under an empowering provision, including a decision”(Burns, 2003)

School principals as administrators, in compliance with empowering provision need to be competent and adequately informed in order to take legally correct administrative actions. First of all the administrative act must be evaluated in terms of the relevant provisions of the Constitution and the Bill of Rights (section 33). Section (33) sub-sections (1) and (2) provide thus:

“Everyone has the right to administrative action that is lawful, reasonable and procedurally fair”.

“Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons”.

It seems unlikely that the definition of decision in PAJA is intended to exclude subordinate legislation such as ministerial regulations and proclamations from the application of the principles of just administrative action. “Such an approach would militate against the spirit and purpose of the Constitution, which is to protect the individual from the power of the state” (Burns, 2003). Since the authoritative power (the promulgation of subordinate legislation) potentially has far-reaching consequences for the individual and may often impact harshly on individual rights, it must be included within the definition of administrative action.

The craft-competency model requires that school principals are sufficiently informed about just administrative actions for they are legally expected to craft management models in their working environments so that their actions are consistent with the legal provisions such as Acts and policies that regulate relationships and activities in the field of education. Their decisions are often of a public law nature as the relationships in schools are one of inequality or subordination. It is not a private law relationship of equality. This public law

relationship of inequality is characterised by the exercise of state or government authority (Burns, 2003). Schools are governed by administrative law principles.

“The administrative justice forms the basis of fair, just and reasonable conduct and this concept has been included in all new education legislation to ensure efficient, lawful and accountable administration” (Bray, 2000). It has since been established that principles of administrative justice apply to actions taken by organs of state or functionaries in terms of such agreements, instruments or documents. The question therefore arises of whether public schools fall under the category of “organ of state”.

2.7.2 Decision by an organ of state, a private person or body exercising public power or performing a public function

Section 239 of the Constitution of the Republic of South Africa of 1996 defines “organ of state” as:

- (a) Any department of state or administration in the national, provincial or local sphere of government; or
- (b) Any other functionary or institution
 - (i) Exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) Exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.

“Provincial legislation” includes:-

- (i) Subordinate legislation made in terms of a provincial Act and
- (ii) Legislation that was in force when the Constitution took effect and that is administered by a provincial government.

In common law, a number of questions could be asked to determine whether a body or organ could be classified as an organ of state such as the following:

- Does the body or organ derive its powers from legislation?

- Does the body or organ form part of a state department such as the Department of Education?
- Does the body or organ perform public duties and functions?
- Does the body or organ have the power to exercise these public duties and functions?

The responses to the four questions above are in the affirmative; therefore public schools are organs of the state. The implications are therefore that principals perform public duties and functions and ultimately must be competent to handle legal matters during the process of making administrative decisions.

2.7.3 Main characteristics of administrative action

By following due process of law, principals in the long term will inspire confidence in the heart and soul of the sceptics who are only keen at capitalising on any slight misdemeanour by dragging them before court of law. If there has been unreasonable delay in taking administrative action, it may constitute a transgression of the law on the part of principals. Unreasonable delay might refer to inability to take a decision on time causing undue frustration to the one that decision is meant for. The following are some of the main considerations that have to be taken into account to decide whether or not administrative action taken is just or not:

- Relevance, that is to say whether or not the administrative authority took all relevant considerations into account, or took irrelevant considerations into account;
- Reasonableness, that is to say whether the administrative action taken was so unreasonable that no reasonable person would have taken it;
- Material errors of fact or law that may have influenced the administrative authority;
- Abuse of power, bad faith or improper purpose, that is to say whether or not a power was exercised in a manner which constitutes an abuse of that

- power, or a power was exercised for a purpose other than that for which the power was conferred, or the administrative authority was actuated by bad faith or improper motives;
- Dictation, that is to say whether or not a power was improperly exercised at the direction, behest or request of another person;
 - Delegation, that is to say whether the administrative authority wrongly delegated its power to some other person or authority.

Suffice it to state categorically that in a modern democratic society principals need to understand in principle how administrative action operates so that their decisions comply with administrative justice. Failure to do so would be construed as transgression of the law.

2.7.4 Empowering provisions

In terms of section 1 of the PAJA (3) 2000 an empowering provision means “a law, a rule of common law, customary law, or an agreement, instrument or other document in terms of which an administrative action was purportedly taken”.

“It is a well known principle of administrative law that the exercise of administrative power must have an authoritative basis, and in the modern day state, this governmental power derives almost exclusively from statute (parliamentary, provincial and local government legislation as well as subordinate legislation)’ (Burns, 2003). For example, the power to admit a learner into a school can be traced back to the empowering statute, Schools Act of 1996 and The Education Laws Amendment Act, 50 of 2002.

Burns (2003) goes on to state: “The definition of an empowering provision is wide and extends beyond a law, rules of common law and customary law to include an agreement, instrument or other document in terms of which administrative action was purportedly taken”. In public schools principals over and above the

legislation and policies in place, use circulars, signed agreements (outsourcing agreements) at school level and other documents to take administrative actions. “The inclusion of the word ‘purportedly’ relates to an agreement, or other document and will ensure that the principles of administrative justice apply to actions taken by organs of state or functionaries in terms of such agreements, instruments or documents” (Ibid).

In a democratic dispensation, public institutions, public schools included, are guided by the stipulations found in empowering provisions. The Constitution of the Republic of South Africa of 1996, national and provincial legislation on education, subordinate legislation, common law (natural justice), case law, other legislation with direct or indirect bearing on education, policies and circulars are some of the empowering provisions in place. The school principals armed with these stated legal instruments must craft informed decisions, based on the empowering provisions that inform the administrative actions to be taken in the process of administration in a school.

2.8 Case law and the principal in a democracy

Joubert (2002) believes that case law is used to determine how legal norms and standards are interpreted and applied by courts in a specific case.

Case law is one of the three primary sources of law in South Africa. The fact that case law may be the law that is made after a superior court has repealed a particular law, makes it very difficult for school principals to administer such court precedents.

Case law (also known as precedential law or decisional law) is the body of judge-made law and legal decisions that interprets prior case law, statutes and other legal authority.

The administrative actions of school principals must comply with the provisions of the relevant case law and other related legal instruments. The task of the principal is not to assume the prime responsibility of courts of ascertaining how legal norms and standards are interpreted and applied but that of determining the essential legal principle and how the court applied them in the particular case. “It is easy to recognise the legal principles that are involved (the *ratio decidendi* or reasons for the judgment), but to understand how the court applied these principles to the facts and circumstances of the case, is sometimes quite tricky” (Bray, 2000). Managing a school in a democratic and transforming country like South Africa can be very complicated and demands school managers who are craft-literate and craft-competent enough to fully understand the dynamics of translating and applying the law.

The administrative actions must also comply with authoritative case law on the matter i.e. if there is a judicial precedent that should be followed. The mundane practice of complying with any court decision is manifest in the way the school principal legally administers law as well as implements policies. Bray (2000) alludes to the two fundamental requirements:

- Relevant common law principles should be adhered to – these principles usually feature in court cases.
- The procedures followed in the investigation and the decision made by the body or official must be in line with the values, spirit and objectives of the Bill of Rights.

“...finally the undertaking by the public (education) administration to promote democratic, open, participative and accountable government should be manifested for example in the way in which bodies and officials perform their administrative (education) actions in their day-to-day work situation (e.g. as educators, administrators, governors), and in the way controlling bodies and officials within the administration evaluate cases and provide remedies to aggrieved persons (where necessary)” (Bray, 2000).

Section 33 of the Bill of Rights is very important to school principals for it obliges them to fully comply with court decisions when making decisions. These decisions should be procedurally correct or else they (decisions) may be unlawful.

The core duties and responsibilities of principals are loosely stated in the Employment of Educators Act, 76 of 1998 under Personnel Administrative Measures (PAM) as general/administrative, personnel, teaching, extra- and co-curricular, interaction with stake-holders and communication. The school principal should use his/her craft-competency skills to locate the applicable sources of empowering provisions from a number of legal instruments at his/her disposal in order to justify the adoption of an administrative action. These empowering provisions must directly or indirectly apply to education. For example, he/she ascertains whether the prescriptions contained in official circulars, other documents and/or agreements are consistent with current policies, legislation and the Constitution of the Republic of South Africa. The careful scrutiny of the empowering provisions (identifying applicable legislation, regulations and personnel administration measures) ascertaining their validity, relevance, legality and implementation is a skill craft-competent technocrats acquire through intensive training and experience in order to lawfully comply with the legal instruments.

In order to fully comply with section 33 (1) and (2) of the Constitution of the Republic of South Africa, 1996 and PAJA (3) 2000 section 3 (1), (2), (3), (4) and (5), a school principal needs to be craft-competent. After having fully digested the contents in the appropriate empowering provisions, the principal has to craft a management model which can be used to administratively manage the school in compliance with the applicable legislation, regulations and personnel administration measures (craft-literacy).

2.9 Conclusion

The concepts craft-literacy and craft-competency imply that school principals, before crafting any administrative management strategies, must know how to translate and interpret policies and law correctly. This implies conforming to procedural practices and requirements. The intellectual process of arriving at correct adoption of administrative actions is craft-literacy. Thus, in order to conceive and formulate meaningful and viable models, school principals must have the capacity of craft-literacy. There must be a conceptual and contextual understanding of the prescriptions contained in the empowering provisions before adopting just administrative action.

Craft-competence as described earlier is the common knowledge that is necessary for the sustenance of institutions charged with implementing policy and law. This is a specialised technical knowledge. For example, the ability to use one's technical and professional expertise to translate and interpret law and policy demonstrates craft-competence. Craft-competence should enable educational administrators to understand, select, replicate and localise information about managerial and educational breakthroughs which are contained in empowering legal instruments.

It is crucial to that school principals need to identify and adopt administrative actions which are lawful, reasonable and procedurally fair when they engage in administrative managerial processes at school level. Failure to do just that in a democratic dispensation might lead to a flood of litigation by affected parties.

Chapter 3: Research design and methodology

3.1 Introduction

The purpose of this research was to determine how school principals work with law and policy in public schools. A "Qualitative" or "naturalistic" research approach was chosen. This kind of research approach varies according to the research paradigm, methods, and assumptions. Generally speaking, qualitative researchers attempt to describe and interpret some human phenomenon, often in the words of selected individuals (the informants). These researchers try to be clear about their biases, presuppositions, and interpretations so that others (the stakeholders) can decide what they think about it all.

The qualitative research approach is one of the two major approaches in social science. It involves investigating participants' opinions, behaviours and experiences from the informants' points of view. It is contrasted with quantitative research in that it does not rely on quantitative measurement and mathematical methods, but instead uses logical deductions to decipher gathered data dealing with the human element.

Epistemologically, qualitative methods insist that we should not invent the viewpoint of the actor, and should only attribute to them ideas about the world they actually hold, in order that we can truly understand their motives, reasons and actions (Becker, 1996).

Qualitative research is a broad term that describes research that focuses on how individuals and groups view and understand the world and construct meaning out of their experiences.

Interpretive qualitative research paradigm starts out with the assumption that access to reality (given or socially constructed) is only through social

constructions such as language, consciousness and shared meanings. The philosophical base of interpretive research is hermeneutics and phenomenology (Boland, 1991). It is important not to construct the circumstances or situations under which principals work, but ensure that we interpret the environment without changing or imposing anything. The productive and effective point of entry to any successful research approach is premised on the systemic establishment and sustainability of a good rapport with the participants.

3.2 Mode of enquiry

3.2.1 What is research?

Research is often described as an active, diligent, and systemic process of inquiry aimed at discovering, interpreting and revising facts. This intellectual investigation produces a greater understanding of events, behaviours or theories and makes practical applications through laws and theories. The term research is also used to describe a collection of information about a particular subject, and is usually associated with science and the scientific methods.

According to Webster (1995), to research is to search or investigate exhaustively. It is a careful or diligent search; a studious inquiry or examination, especially investigation or experimentation, aimed at the discovery and interpretation of facts; the revision of accepted theories or laws in the light of new facts or practical application of such new or revised theories or laws; it can also be the collection of information about a particular subject.

Qualitative research has an interpretive character, aimed at discovering the meaning events have for the individuals who experience them and the interpretations of those meanings by the researcher.

3.2.2 Qualitative case study research approach

A case study is an empirical inquiry that “investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and contexts are not clearly evident” (Yin, 2002).

The case study research method was particularly well-suited to this research, since the object of my discipline was the study of the impact of the implementation of the Education Laws Amendment Act, 50 of 2002 in public schools as one of the empowering provisions available in those schools. The Act deals with admissions in public schools.

Case study research can be positivist, interpretive, or critical, depending upon the underlying philosophical assumptions of the researcher. Yin (2002) and Benbasat *et al.* (1999) are advocates of positivist case study research, whereas Walsham (2002) is an advocate of interpretive in-depth case study research about which this study was. The interpretive case study was the preferred mode of inquiry as the logic behind the study was to understand in-depth how principals worked with the law and policy without having to contaminate data in any way.

A case study is a particular method of qualitative research. Rather than using large samples and following a rigid protocol to examine a limited number of variables, case study methods involve an in-depth examination of a single instance or event: a case. They provide a systematic way of looking at events, collecting data, analysing information, and reporting the results. As a result the researcher may gain a sharpened understanding of why the instance happened as it did, and what might become important to look at more extensively in future research. Case studies lend themselves to both generating and testing hypotheses (Flyvbjerg, 2006). Yin (2002) on the other hand suggests that a case study should be defined as a research strategy, an empirical inquiry that investigates a phenomenon within its real-life context. Case study research

means single and multiple case studies can include quantitative evidence, relies on multiple sources of evidence and benefits from the prior development of theoretical propositions. He notes that case studies should not be confused with qualitative research and points out that they can be based on any mix of quantitative and qualitative evidence. This is also supported and well formulated in Lamnek (2005) who says: "The case study is a research approach, situated between concrete data taking technique and methodological paradigm."

The unit of analysis is a critical factor in the case study. It is typically a system of action rather than an individual or group of individuals. Case studies tend to be selective, focusing on one or two issues that are fundamental to understanding the system being examined. In this research, the unit of analysis was to determine how principals work with case law in schools.

Case studies are the preferred strategy when "how" or "why" questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real-life context. The case study is especially appropriate when the boundaries between phenomenon and context are not clearly evident. The case study copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result relies on multiple sources of evidence, with data needing to converge in a triangulating fashion.

The interpretive in-depth case study research was intended to find out how school principals interpreted and/or translated legal instruments in the form of admissions policy in the process of making decisions that are lawful, reasonable and procedurally fair. It was prudent upon me to interact with the school management teams in order to fully appreciate and understand how they worked with the law in schools. An in-depth understanding of the events, situation, culture, traditions, procedures and behaviour assisted me to gather data that

explained better how principals worked with the law in general and the admissions policy in particular.

As stipulated in section 4 (2) (d) of the Employment of Educators Act, 76 of 1998, the duties of public school principals, among others, include ensuring that the school is managed satisfactorily and in compliance with applicable legislation, regulations and personnel administration measures as prescribed. The Promotion of Administrative Justice Act, 3 of 2000 is aimed at promoting an efficient administration and creating a culture of accountability, openness and transparency in the public administration or in the exercise of public power or the performance of a public function by giving right to just administrative action. The stipulations of sections 33(1) of the South African Constitution provide that everyone has the right to administrative action that is lawful, reasonable and procedurally fair. The principals, in the exercise of power, are expected to comply with the legal instruments that serve as empowering provisions in schools. South African society is slowly and surely getting informed about its legal right and obligation as regards the education of its children as supported by court challenges such as *Matukane and Others v Laerskool Potgietersrus* 1996 (3) SA 223 (T), *Minister of Education v Harris* 2001 (4) SA 1297 (CC), *Minister of Education and Another v Wynkwardt* No 2004 (3) SA 577 (C), *Schoombee and Others v MEC for Education, Mpumalanga and Another* 2002 (4) SA 877 (T) among others. Parents and other stakeholders are no longer shy to take the Departments of Education to court should they feel the rights of their children are being infringed upon as demonstrated by the cases sighted above. It was therefore imperative on my part to interpretively understand and appreciate how principals in particular arrived at decisions that comply with the law, in order to avoid delictual liabilities that might be brought against the Departments of Education challenging such decisions and many more.

3.2.2.1 Characteristics of qualitative case study research

Yin (2003) identifies five components of the research design that are important for case studies:

- A study's questions
- Its propositions, if any
- Its unit(s) of analysis
- The logic linking of the data to the propositions
- The criteria for interpreting the findings

The study's questions are most likely to be "how" and "why" questions and their definition is the first task of the researcher. The study's propositions sometimes derive from the "how" and "why" questions, and are helpful in focusing the study's goals. Not all studies need to have propositions. An exploratory study, rather than having propositions, would have a stated purpose or criteria on which the success will be judged. The unit of analysis defines what the case is. This could be groups, organisations or countries, but it is the primary unit of analysis. Linking the data to propositions and the criteria for interpreting the findings are the least developed aspects in case studies (Yin, 2003).

3.3 Criteria for trustworthiness and ethical considerations

Trustworthiness as a criterion to test the quality of research design was the guiding principle during the entire research. Because interpretive validity is obtained to the degree that the participants' viewpoints, thoughts, intentions, and experiences are accurately understood and reported by the qualitative researcher, the participants were visited in their natural employment settings in order to observe, describe, analyse, interpret and understand how principals worked with law and policy. It was much easier to clarify certain issues there and then without having to wait for some other time.

The interactions and exchanges of ideas during interviews enabled me to ask participants hypothetical questions in order to draw a number of conclusions as to how they were working with the law in schools. In order to ensure the validity and trustworthiness of the research design, several techniques were employed, including mechanically recording the data, member-checking, triangulation, purposive sampling, and maintaining a reflective journal.

Patton (1990) points out that these are not "absolute characteristics of qualitative inquiry, but rather strategic ideals that provide a direction and a framework for developing specific designs and concrete data collection tactics". These characteristics are considered to be "interconnected" (Patton, 1990) and "mutually reinforcing" (Lincoln & Guba, 1990).

One thing about verification needs to be mentioned: Because qualitative inquiry is also verified in the process of data collection and analysis, good qualitative inquiry must be verified reflexively in each step of the analysis. This means that it is self-correcting, that is, inadequate or poorly supported constructions are not supported and "fall out" of the analysis. In this way, qualitative inquiry, properly conducted, is self-correcting and rigorous, and the results are strong (Morse, 2006). Also see diagram 3.1.

It is important to emphasize the emergent nature of qualitative research design because meanings are sought to be observed and interpreted in context. It is neither possible nor appropriate to finalize research strategies before data collection has begun (Patton, 1990). Emergent design refers to changes made to the data collection techniques as well as approach in order to accommodate new information which emerged as the research continued. Qualitative research proposals should, however, specify primary questions to be explored and plans for data collection strategies. As it emerged during the data analysis process that participants were neither craft-competent nor craft-literate (see chapter 4

paragraph 4.3.6), it was decided to include the element of what aided them in the decision-making processes.

The particular design of a qualitative study depends on the purpose of the inquiry, what information will be most useful, and what information will have the most credibility. There are no strict criteria for sample size (Patton, 1990). "Qualitative studies typically employ multiple forms of evidence...and there is no statistical test of significance to determine if results 'count'" (Eisner, 1991). Judgments about usefulness and credibility are left to the researcher and the reader. I went into the natural environments where participants operated, with the view of experiencing first hand how public school principals translated law and policy and their subsequent implementation thereof.

Interpretive validity is obtained to the degree that the participants' viewpoints, thoughts, intentions and experiences are accurately understood and reported by the qualitative researcher. It was imperative therefore to choose the most appropriate data collecting techniques that would at best gather all the relevant and related information.

Five data collection methods were identified and subsequently used in the process of gathering data, namely literature review, structured interviews, reflectico-appraisal inventory log, content analysis and questionnaires. Instead of spending a month in the field, the study was eventually spread over three months because of new emerging information which needed verification. Information recorded during interview sessions (structured and unstructured) was weighed against other responses obtained through other collecting techniques which were used as verification strategies. For example, participants were asked whether they knew what administrative action was. Instead of completing questionnaires and the reflectico-appraisal inventory log method, it was decided during structured interview sessions to ask participants to elaborate on

the aspect of taking correct administrative actions and also identify the basis for their decisions.

A discourse on administrative action was generally pursued including its main characteristics. Responses were then compared with those received from other data collecting techniques. Participants were required to show working knowledge of administrative action in the questionnaire and structured interviews by way of explaining what administrative action was. They were asked to record by explaining briefly in their reflectico-appraisal log inventory how administrative action was conceived and taken in response to challenges they were facing. The data was then reconciled with information recorded in minute files (books where decisions are recorded during and after senior management team meetings). Content analysis of verbal and textual information was done in order to collaborate, verify and triangulate all data received.

The same was done to all critical questions pertaining to how they worked with the Education Laws Amendment Act, 50 of 2002. It was crucial to make sure that all ethical considerations were followed such as non-disclosure of the identities of the participants. They were reminded of the fact that they were free to withdraw at anytime should they so wish. They were also assured that the information collected was to be used for the sole purpose of accomplishing the study and nothing more. The data was going to be kept in a secure place and no one other than the researcher would have access to it. Sheppard & Sherman (1998) describe consistency, transparency and predictability as key attributes of trustworthiness.

Over and above the use of trustworthiness strategies mentioned above, I went further to use verification strategies such as checking, confirming, making sure and being certain of the entire process (Morse *et al.*, 2002). Since I used five different data collection methods, it was prudent to make sure that all five that came from one respondent were filed accordingly to avoid confusion. I checked

to confirm that data received from a specific respondent was verified and coded accordingly in the “collection tray” (see diagram 3.1). I analysed all data that came from a particular individual in order to have a complete understanding of how that respondent worked with case law in that site.

3.4 Sampling

Sampling is the act, process or technique of selecting a suitable sample, or a representative part of a population for the purpose of determining parameters or characteristics of the whole population. What is the purpose of sampling? I obtained a sample rather than a complete enumeration (a census) of the population for many reasons. Obviously, it is cheaper to observe a part rather than the whole, but one should prepare oneself to cope with the dangers of using samples. There are various kinds of sampling procedures. Some are better than others but all may yield samples that are inaccurate and unreliable. Critical case and purposive are but two sampling procedures that can be used in a qualitative interpretive case study. The former permits logical generalisation and maximum application of information to other cases because if it's true of this one case it's likely to be true of all other cases. The latter suggests that subjects are selected because of some characteristic. This research utilised both procedures. Subjects were selected because they were in the same profession. The sample of the prospective participants was considered to be fairly well educated and experienced. They were all managers of public schools and were most likely using the same empowering provisions.

"It is sometimes presumed that a sample should be based on some agreed percentage of the population from which it is taken. The view that there is a constant percentage, often thought to be around 10 per cent, which can be applied when sampling populations of all kinds and sizes, is quite wrong" (Chisnall, 2003). Some researchers base the sample size on the margin of error that can be tolerated or the precision required of estimates. However, most

survey studies are designed to make a variety of estimates - not just a single estimate. It is also highly improbable that a researcher can specify the acceptable margin of error in advance (Fowler, 2001).

In general, the sample size decision must be made on a case-by-case basis, considering the variety of goals to be achieved by a particular study and taking into account numerous other aspects of the research design. The size of a sample depends upon the basic characteristics of the population. If there is complete homogeneity, a sample size of 1 would be sufficient, while a larger sample is obviously required where the required characteristics display wide heterogeneity.

One of the ways of dealing with heterogeneity is to break the population down into sub-groups or strata, which display homogeneity among the sample units. This is known as stratified (random) sampling, which is more efficient than simple random sampling. However, strictly speaking, a sample frame such as a list of all principals in a particular area from which to draw a sample was needed. Where one is sampling from a much larger population, as in say, a province, one requires a complete list of all the principals in the province from which to randomly select a given sample, subject to certain characteristics such as age, qualifications, experience, etc., which might be set as "quotas". It is also necessary to ensure that the smallest sub-group or stratum should contain "sufficient" sampling units so that accurate and reliable estimates can be found of the population stratum.

A stratified (random) sampling was preferred as the group sample displayed homogeneity among the sample units. A sample of 10 schools was selected from Ekurhuleni West, District six (D6). From each school, principals, deputy principals and two senior members of the school management team were requested to take part in the study, provided they gave their consent willingly. The stratum yielded a total of forty-five (45) participants (see annexure 7)

3.5 Data collection techniques

The following are the tools and approaches used to collect data to answer the research question. Five techniques were employed to gather data, namely a questionnaire, a literature review, interviews (structured and unstructured), document analysis and the reflectico-appraisal log inventory method.

Qualitative case study research methodology was deliberately selected because it was deemed to be the most appropriate vehicle for gathering data that would assist to better understand and explain how school principals translated and worked with legal instruments in their natural environments. This approach necessitated the need for a careful identification and adoption of the most suitable data gathering methods.

3.5.1 Literature review

A literature review is an essay in which the author discusses past research on a specific topic. Literature reviews are most helpful when they are narrowed to a specific topic; often, the author uses a literature review to situate his or her own study.

What should a literature review accomplish?

A literature review should:

- Focus on a specific rather than general topic. The focus allows the author of the literature review to find relevant research pertaining to his or her topic. It may also be helpful to think of a topic in terms of a problem being addressed in research.
- Demonstrate a gap in literature about a specific topic. Gaps are areas that past research has not covered, or at least has not covered sufficiently. Authors of literature reviews often look for gaps within research to

- demonstrate a need for their specific study. One can determine a gap by looking at the topics and findings from past research on a study.
- Demonstrate the ethos or credibility of the author; that is, through the literature review, the author should demonstrate that he or she has a thorough knowledge of the topic and can speak intelligently about it.
 - Demonstrate an understanding of how the author's study contributes to the field. Again, literature reviews are often used by authors to situate their studies within a body of work in their discipline. Through reviewing other relevant literature, the literature review should demonstrate how the author's study contributes to the field. Literature was interrogated in the form of the Constitution of South Africa, Acts that were related to education, policies, circulars, reports on education issues, newspapers, and annual reports on educational issues, letters, memoranda, and books on education law. Literature on school governance, administrative management as well as information files kept in schools were consulted (Policy Hand book for Educators, 2003).

Findings revealed that literature centred on governance of schools by school governing bodies and parent associations as well as leadership and management of schools. The South African Schools Act, 84 of 1996 clearly spells out the functions of Governing Bodies in public schools. Literature on administrative management abounds but models and/or theories on craft-competency and craft-literacy regarding law and policy compliance are virtually nonexistent. Literature on how principals are expected to take just administrative actions in public schools is also nonexistent despite the existence of the Constitution of South Africa, 1996, the Promotion of Administrative Justice Act, 3 of 2000, other subordinate laws and work by other authors such as Burns (2003), Baxter (1984) and Bray (2000).

3.5.2 Interviews

An interview is one of the major sources of data collection, and it is also one of the most difficult to get right. In qualitative case study research, the interview is a form of discourse. According to Mishler (1995), its particular features reflect the distinctive structure and aims of interviewing, namely that it is discourse shaped and organized by asking and answering questions. An interview is a joint product of what interviewees and interviewers talk about together and how they talk with each other. The record of an interview that researchers make and then use in analysis and interpretation is a representation of that talk.

Structured and unstructured interviews were used during the study in order to collect information in addition to the data emerging from other sources of data collection techniques such as questionnaires, document analysis, literature review and reflectico-appraisal log method. Sometimes information provided in the questionnaires is rehearsed and/or difficult to comprehend; therefore it was important to gather as much data to enhance the quality of the interpretation and coding of overall data. I intended to understand how they came to know about the Education Laws Amendment Act, 50 of 2002 and how they went about translating and interpreting the law in preparation of its implementation in public schools pertaining to the admission of learners. Interviews were meant to obtain a holistic picture on how principals work with laws in a broader sense. The assumption was that participants knew about the amendment because public schools are supposed to be working with the law as they go about admitting learners in schools.

3.5.3 Questionnaires

Hardy (2001) defines discourse as a system of texts that bring objects into being. Representation of discourse is texts, and questionnaires are included among other texts. Detailed analysis of language in use by participants when

completing questionnaires was made (Hammersely, 2002). Over and above the usual biographical information, it was necessary to understand how principals and members of the management team worked with law and policies in schools. Questionnaires were intended to collect information on their knowledge of law and policy, how they came to know about the Education Laws Amendment Act, 50 of 2002 as well as their knowledge about the administrative action. Lastly it was meant to find out how they were inducted or informed on the interpretation, translation as well as implementation of legal instruments in schools. The questionnaire was divided into three sections, namely profile and biographical, knowledge of the case law and working knowledge (application) of case law.

3.5.4 Document analysis

Document analysis is defined as “a systemic approach to documents that emphasises the construction of meaning out of the given texts. There is an emphasis on allowing categories to emerge out of data and on recognising the significance for understanding the meaning of the context in which an item is being analysed (and the categories derived from it) appeared” (Bryman, 2004).

Over and above the close analysis of text in the form of questionnaires, the information in the form of texts contained in the minute files (a record of what transpired in meetings) was studied carefully. These files are normally used by the schools to record decisions arrived at during the process of conducting staff as well as school management team planning meetings. It was very important to locate precise links of decisions made to any empowering provisions available in schools. Were there any empowering provisions mentioned in the minutes analysed? What informed the principals’ decision- making processes?

Mayring's qualitative content analysis tries to overcome the shortcomings of classical quantitative content analysis by applying a systematic, theory-guided approach to text analysis using a category system (Mayring, 2002). Over and

above data collected quantitatively, I went further to find the explanations for why the majority of principals were unable to interpret and translate empowering provisions available in schools.

Two types of document analysis were used; the internal document analysis consisted of analysing documents generated within the school system namely minute files and the admissions record book. The external one consisted of looking closely into the provisions as prescribed in the Education Laws Amendment Act, 50 of 2002, the Constitution of South Africa, 1996, the South African Schools Act, 84 of 1996 and the Promotion of Administrative Justice Act, 3 of 2000. The motive behind the close analysis of the said documents was the need to determine the link between correct interpretation and the subsequent correct adoption of administrative actions by school principals. It was needed to arrive at an evidence based conclusion as to whether those decisions arrived at were of a legal nature or not.

3.5.5 Reflectico-appraisal inventory log method

A craft-literate principal is one who is able to accurately translate, interpret and comply with the law and policies with sustainable regularity in his/her decision-making processes. This ability leads to competency, for they are required by law to adopt administrative actions that are lawful, reasonable and procedurally fair (PAJA, 3, 2000). The reflectico-appraisal log inventory method was designed to allow principals to reflect on their decisions by recording them in the inventory log booklets. They were requested to record all the decisions they deemed to be of a legal nature for a period of one month, and if possible to indicate the basis for their decisions. This was done in order to verify whether the information provided in the questionnaires, structured interviews as well as minute books/files was congruent with what was documented in the inventory log booklets. Good administrative managers need to keep record of the decisions, of whatever nature, in case such decisions are challenged or disputed in future.

3.6 Data analysis

Bogdan & Biklen (2003) define qualitative data analysis as "working with data, organizing it, breaking it into manageable units, synthesizing it, searching for patterns, discovering what is important and what is to be learned, and deciding what one will tell others". Qualitative researchers tend to use inductive analysis of data, meaning that the critical themes emerge out of the data (Patton, 2002). Qualitative analysis requires some creativity, for the challenge is to place the raw data into logical, meaningful categories; to examine them in a holistic fashion; and to find a way to communicate this interpretation to others. I needed to find the most appropriate way of communicating the findings. The data collected on its own is meaningless unless logical and coherent explanations are made. Sitting down to organise raw data can be a daunting task. In this case it involved literally hundreds of pages of interview transcripts, field notes and documents. The mechanics of handling large qualitative data proved to be very complicated and cumbersome. The physical sorting and storing of slips of paper started the entire process of coding.

Analysis began with identification of the themes emerging from the raw data, a process sometimes referred to as "open coding" (Strauss & C obin, 2003). During open coding, the conceptual categories into which the phenomena observed was grouped, identified and tentatively named. The goal was to create descriptive, multi-dimensional categories which formed a preliminary framework for analysis. Words, phrases or events that appeared to be similar were grouped into the same category. For example, knowledge of administrative action, empowering provisions, law compliance, etc. were grouped together. These categories were gradually modified or replaced during the subsequent stages of analysis that followed.

As the raw data was broken down into manageable chunks, an "audit trail" was also devised - that is, a scheme for identifying these data chunks according to

their speaker and the context. The particular identifiers developed may or may not be used in the research report, but speakers are typically referred to in a manner that provides a sense of context (Sours, 1997). For example one respondent wrote, “to the extent that I have passing recollection of the facts of the case (ie. school readiness *vis-à-vis* minimum admission age) I would seek a directive from a competent higher official if faced with a similar case” (DQ(I)), in response to a question that sought to find out their views on how they would deal with the case, The Admissions Laws Amendment Act, 50 of 2002.

The example of views expressed by one of the respondents is shown in sample 3.1.

Sample 3.1: A sample of respondent’s views on craft-competency and craft-literacy

Question 10

To what extent were you equipped to deal with the implications of this case?

Not at all equipped	1
Equipped	2 ✓
Fully equipped	3

Question 12

Do you think you are adequately equipped as a principal/deputy/SMT to be able to cope with the task of working with the law?

Yes	1 ✓
No	2

Please give brief reasons for your answer to **Question 10**

RECOLLECTION

TO THE EXTENT THAT I HAVE PASSING KNOWLEDGE OF THE FACTS OF THE CASE (ie. SCHOOL READINESS *vis-à-vis* MINIMUM ADMISSION AGE) I WOULD SEEK A DIRECTIVE FROM A COMPETENT HIGHER OFFICIAL IF FACED WITH A SIMILAR CASE.

The views expressed show that the respondent is not craft-competent and craft-literate and confident to take any administrative action before consulting with a “competent higher official”.

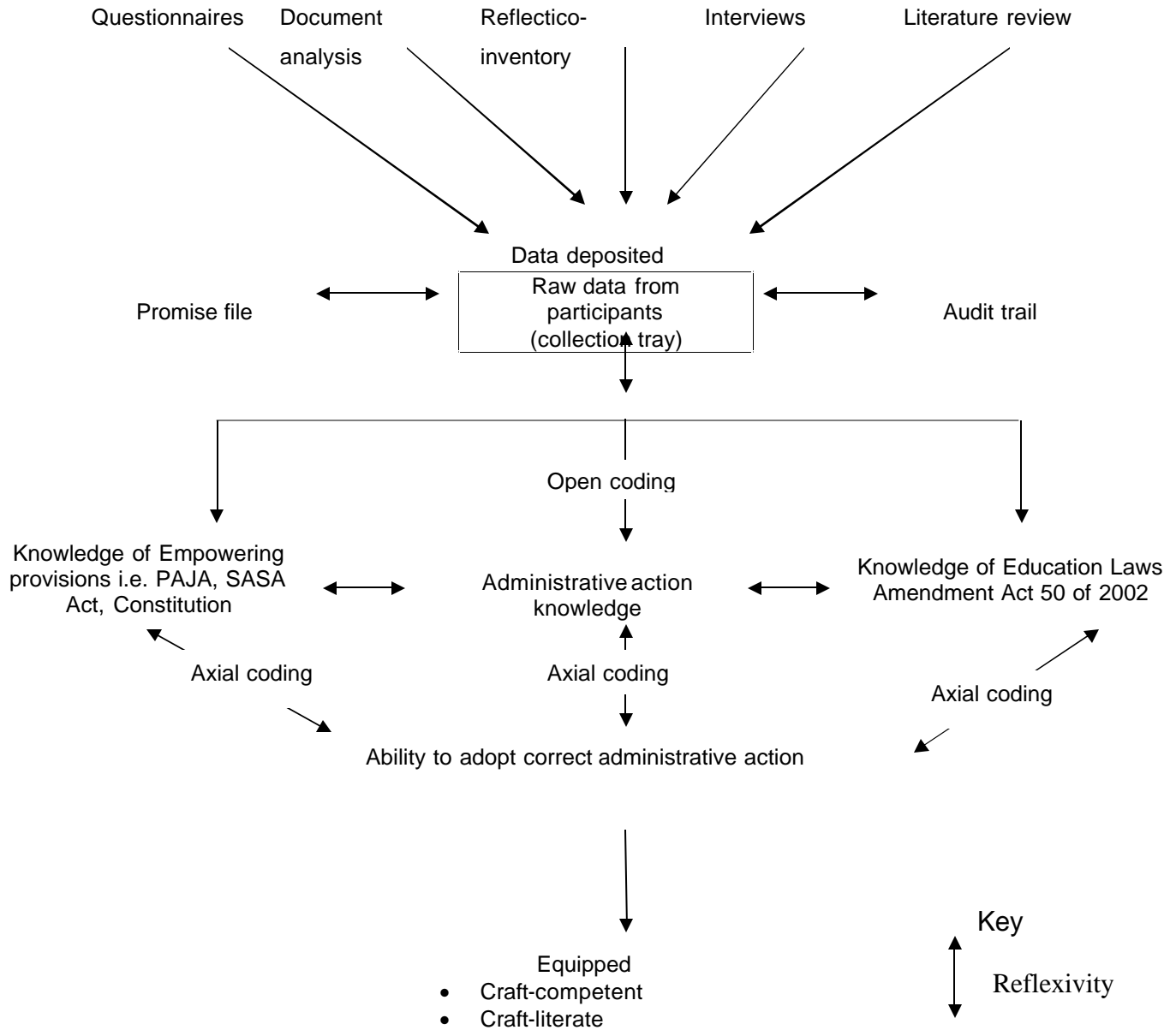
Chances are that he/she does not know what administrative action is. Data with almost similar sentiments was not put under “ability to adopt correct administrative action”. Qualitative research reports are characterized by the use of "voice" in the text; that is, participant quotes that illustrate the themes being described.

The next stage of analysis involved re-examination of the categories identified, to determine how they were linked, a complex process sometimes called "axial coding" (Strauss & Cobin, 2003). The discrete categories identified in open coding were compared and combined in new ways as the "big picture" began to assemble. The purpose of coding was not only to describe but, more importantly, to acquire new understanding of a phenomenon of interest. Therefore, causal events contributing to the phenomenon; descriptive details of the phenomenon itself; and the ramifications of the phenomenon under study were identified and explored. During axial coding a conceptual model was built to determine whether sufficient data existed to support that interpretation. For example, it was found that the majority of participants needed training on the translation and interpretation of law in schools.

Finally, the conceptual model was translated into the story line that would be read by others. Ideally, the research report will be a rich, tightly woven account that "closely approximates the reality it represents" (Strauss & Cobin, 2003). During axial coding, the initial categories identified were revised, leading to re-examination of the raw data. Additional data collection occurred when it became clear that obvious gaps were emerging during the process of analysing data. In fact, informal analysis began with data collection, and was guided by subsequent

data collected. I designed diagram 3.1 which indicates the methods used in coding data received.

Diagram 3.1: Analysis of data using the coding method



The diagrammatic illustration above serves to explain how coding was done after receipt of data from the participants. An array of arrows pointing towards the collection tray, indicates data as received by means of five data collection

methods from different sites. Questionnaire from site (A) that came from the principal was coded AQ(1): (A) stood for a site, (Q) for questionnaire and (1) for the principal. For deputy principal the code was AQ(2). (A) for the same site, (Q) for questionnaire and (2) for (deputy principal). If there were more than two deputy principals the code changed to AQ(2.1) and AQ(2.2) respectively. SMT members were coded as (A) for a site, (Q) for questionnaire and 3 for a respondent, of which one of each was, coded 3.1 and 3.2 respectively. The similar process was done for the remaining (9) sites. Sites and data collection methods were used as prefixes to three categories of respondents. A similar strategy was used to code data collected through four other collection techniques. For example document analysis was coded as AD(1), structured interview was ASI(1), reflectico-appraisal inventory log method was AR(1). All the sites were coded in the similar way (see table 3.1)

Table 3.1: Examples of references and quotations

Quotation	References	Explanation of references
We are always given documents but not training	AQ(1)	(A) stands for a site (Q) stands for Questionnaire (1) stands for a principal
Laws of the Department	JSI(2.1)	(J) stands for another site (SI)stands for structured interview (2.1) stands for deputy principal
I would seek a directive from the competent higher education official	GQ(3.1)	(G) stands for another site (Q) stands for Questionnaire (3.1) stands for SMT

Open coding continued after having identified categories, an audit trail, data unrelated to study, knowledge of empowering provisions, knowledge of administrative action and of Education Laws Amendment Act, 50 of 2002.

Having grouped data according to stated categories, axial coding followed that linked the information contained in these categories with the ability to adopt correct administrative action. I tried to find views that could be attributed to the ability to take correct administrative actions. Views expressed in the questionnaires were first verified with responses in other data collection techniques, namely structured interviews, document analysis and reflectico-appraisal log method. Contradictory or unclear responses were compared with information from other sources as well to broaden the scope of analysis. To thicken data for the purposes of enhancing quality evidence based conclusion, at times I had to go back to the "raw data tray" or revisit the sites for more information (reflexivity).

3.6.1 Guidelines used in analysing data

Although a clear distinction between data gathering and data analysis is commonly made in quantitative research, such a distinction is problematic for many qualitative researchers. For example, from a hermeneutic perspective it is assumed that the researcher's presuppositions affect the gathering of the data - the questions posed to informants largely determine what you are going to find out. The analysis affects the data and the data affect the analysis in significant ways. Therefore it is perhaps more accurate to speak of "modes of analysis" rather than "data analysis" in qualitative research. These modes of analysis are different approaches to gathering, analysing and interpreting qualitative data. The common thread is that all qualitative modes of analysis are concerned primarily with textual analysis (whether verbal or written).

Although there are many different modes of analysis in qualitative research, just one of the three approaches or modes of analysis will be discussed here: hermeneutics. The process of analysing data in the form of text required first to understand its meaning in full and in context before making sure that the findings will be understood by the reader (Higgs, 2004).

Hermeneutics can be treated as both an underlying philosophy and a specific mode of analysis (Bleicher, 1980 and Higgs, 2004). As a philosophical approach to human understanding, it provides the philosophical grounding for interpretivism. As a mode of analysis, it suggests a way of understanding textual data.

Hermeneutics is primarily concerned with the meaning of a text or text-analogue (an example of a text-analogue is an organisation, which the researcher comes to understand through oral or written text). The basic question in hermeneutics is: what is the meaning of this text? (Radnitzky, 1970).

Taylor (1988) says that:

Interpretation, in the sense relevant to hermeneutics, is an attempt to make clear, to make sense of an object of study. This object must, therefore, be a text, or a text-analogue, which in some way is confused, incomplete, cloudy, seemingly contradictory - in one way or another, unclear. The interpretation aims to bring to light an underlying coherence or sense.

The idea of a hermeneutic circle refers to the dialectic between the understanding of the text as a whole and the interpretation of its parts, in which descriptions are guided by anticipated explanations (Gadamer, 1994). It follows from this that one has an expectation of meaning from the context of what has gone before. The movement of understanding "is constantly from the whole to

the part and back to the whole" (Ibid.). As Gadamer explains: "It is a circular relationship. The anticipation of meaning in which the whole is envisaged becomes explicit understanding in that the parts that are determined by the whole also determine this whole." Ricoeur (1974) suggests that: "Interpretation is the work of thought which consists of deciphering the hidden meaning in the apparent meaning, in unfolding the levels of meaning implied in the literal meaning." There are different forms of hermeneutic analysis, from "pure" hermeneutics through to "critical" hermeneutics (Higgs, 2004).

Data collected through interviews, (structured and unstructured) was carefully analysed. Trends that emerged in it were recorded in order to form meaning. The responses by the participants were recorded and their meanings coded. For example, those unable to explain what administrative action was but claimed to know were put on one side. Those who did not want any capacity building but stated in the questionnaire that they consult unions or "higher officials" were grouped together.

3.6.2 Coding and analysis of qualitative data

There are at least three ways to begin coding. The first method requires clear definitions of the activities and behaviours you want to track. In this case, it was necessary to know what was sought and what it looked like. Craft-competency and craft-literacy of participants in handling case law were to be traced. The next two methods relied on keen insight, as data was read and track kept of emerging categories and codes. In the second and third situations, it was to be kept in mind that the larger question at hand was: "Are school principals craft-competent and craft-literate enough to craft admission actions that are lawful, reasonable and procedurally fair in the translation and interpretation and subsequent implementation of case law at school level?" in order to recognize that which is relevant (see paragraph 3.2).

The process of coding and analysing data is a critical part of a qualitative dissertation because it is the unique part that enables one to make an original contribution to one's discipline. The following system makes the process manageable and enhances the possibility that one will develop an original and sophisticated answer to one's research question from the data. The system below applies to observations, interviews, written texts, visual images, or any interpretable artefacts.

Step 1: Coding the data

I went through the data looking for things pertinent to answering the research question. The specificity and concreteness of the research question directed me towards what to look for. For example, I looked for semblances of knowledge of case law, knowledge of administrative action, correct translation and interpretation of case law, classification of administrative action etc.

The research question suggested what pieces needed to be coded and what needed to be left by the wayside for another question. A heading or label was written that described what was seen or observed in the passage or chunk of quotations that were most important. For example, quotations such as, "Training by.... (name of union removed for its protection) branch meetings" (AQ(1)) were included as they exemplified the fact that some of these unions play major roles in assisting respondents to adopt correct administrative actions.

The following phrases were used as headings: adequately equipped, knowledge of administrative action, knowledge of case law and not pertinent to research. The label did not have to be very precise at the time; it was just a general indicator. The coded material was labelled with labels that did not just come from the literature review or the research question but also from analysing content, discourse and documents. New observations and insights produced new labels. No theories from anyone's discipline that seemed relevant to the data were

brought in at that point. I needed to be tied to the data as I continued to code, not relating it to or categorising it according to theories I knew. I avoided coding according to what I wanted to find by remembering that I would have to explain how I had come to my claims and conclusions from the data. These claims would have to make sense to someone else. To help myself code in this way, I tried to code the data as a complete novice - someone with no extra knowledge, assumptions, or values besides what's in the data. I also coded with scepticism by asking myself: "Did the data really say this? Could I explain this to someone else using only this text?" Interesting but irrelevant data that did not have any bearing on the study was put in a "promise file" -- a file where ideas for projects for future study were kept. For example, the extents to which public school principals' unions assist in the translation and interpretation of law in schools, assistance they got from higher authorities, etc.

Step 2: Developing themes from the data

Another copy of the coded data was made. On one of the copies, the sections that were labelled on the transcripts were physically cut out. The other copy was saved for future reference. The coded data was sorted into piles according to topics. For example, knowledge about The Education Amendment Act, 50 of 2002, administrative action, etc. All of the chunks of data that had the same labels or closely related labels were put in the same pile. Each pile was labelled with a word or phrase that captured the gist of what was in that pile. A space was created where the piles could be laid out and kept. The piles were assessed by asking questions such as: "Does everything in each pile relate to the label given to the pile? Can some piles be combined? Can some piles be deleted because they are insignificant, don't relate to the research question, or have very few pieces of data in them?" Issues relating to the National Curriculum Statement (NCS) training among others were left out because they did not directly relate to what I was looking for. In other words it did not relate to administration of case law.

Step 3: Develop a conceptual schema from the data.

The conceptual schema ties the data together, answers the research question, is coherent, and goes beyond the obvious. This is the critical step. This is what will enable one to make an original contribution to the field. I played around with different ways to organise the themes to create a conceptual schema. Were some of the themes major and some minor components of a schema? Can one tell an interesting narrative with one's themes? Can the themes be organised according to some kind of metaphor? Can one describe the steps in a process and create a name or acronym for the process?

What was to be avoided was ending the process of coding with simply a list of themes. The aim was to do something with those themes to knit them into a theory. This was a good place to elicit the help of others by talking through the ideas with someone else to come up with a conceptual schema. The process of creating a conceptual schema can take a while, but I was patient and did not settle on the most obvious schema only because I wanted to complete the process (Sonja, 2005). There were provisional pointers that signalled possibilities that school principals were not craft-competent and craft-literate. However the information at that stage had some grey areas that needed clarification before making any substantive conclusion.

Step 4: Writing up the analysis

The piles were organised in the order in which I wanted to talk about the topics (the order in which I wanted to explain my schema); then each pile was taken in turn and sorted, organising and eliminating irrelevant data within it. Then the strips of paper were laid out in one pile and writing through the pile, the strips were connected with my own thoughts and transitions.

The analysis was written so that it was driven by the conceptual schema - what was being said that was new. The convergence of data clearly pointed to one direction; that school principals were not craft-competent and craft-literate to make authoritative decisions based on empowering provisions applicable to education.

Step 5: Building theories

Further discoveries of relationships among themes were made. However, I was careful that the relationships uncovered were not merely through my own eyes and biases. A second round of reading was necessary to ascertain that I was not misrepresenting data. During the course of the study, the relationships which cemented the themes together became my theories.

After a time categories emerged with high frequency of mention and were found to be connected to many of the other categories. These were found to be my "core categories." Principals were unable to classify information into the following two categories, namely general and legal decisions. Indications at that stage were that principals were not aware that all decisions they were expected to make had legal implications.

The following three questions served as the basis for my reflection:

- a) How or how not does this respond to my research questions?
- b) What more do I need to know to understand what happened?
- c) What do I do with this information?

The categories and explanations that had been culled from the data were tested against the variety of cases that had been recorded. Any alternative explanations for what was thought to have been seen at that time were looked for. More importantly, I looked for clues that contributed towards knowledge and skills by looking at the data from a variety of perspectives.

Triangulation among the various forms of data that was gathered was carried out in order to enrich data. For example, responses recorded in the questionnaires, were compared with those in the structured interviews. Once conclusions had been arrived at regarding the data gathered, it was necessary to consider the question of how to re-focus on the guiding question which drove the research. Some of the guiding questions were: (a) Can the question be answered from what I learned? (b) Would another question have been more appropriate? (c) What other questions has the research provoked?

The "effectiveness of triangulation rests on the premise that the weaknesses in each single method will be compensated by the counter-balancing strengths of another" (Jick, 1979). In this research five sources of data enabled me to provide a thick description. Therefore, triangulation "can potentially generate what anthropologists call 'holistic work' or 'thick description'" (Jick, 1979).

During the act of interacting with the participants, it was crucial to test some of the responses by either asking the same question in different ways or asking the respondents for more detailed responses. For example, the same questions which were included in the questionnaire were repeated in the structured interviews. The recordings of decisions taken in the minute files were compared with what was recorded in the reflectico-appraisal log books. Some time was spent talking, in an informal way, with school principals. Questions such as, "How were you affected by the Education Laws Amendment Act of 2002, etc.?" were asked.

In the afternoons, during sports, I also spoke to some members of the school management team about their roles in the implementation of law and policies in schools. Very unexpected views emerged. Some participants, for example, thought administrative issues were the preserve of the school principal. Responses will be detailed in the next chapter.

3.7 Conclusion

In this chapter, the research design and methodology were discussed. Particular attention was paid to the most appropriate and empirical research design that suited the kind of research that was contemplated. The qualitative case study research mode of enquiry was found to be the most appropriate because the intention was to remain in the natural environments of the participants in order to interpret, as well as comprehend the culture and traditions of how public school principals worked with the law in a bureaucracy.

The interpretive in-depth case study research was intended to find out how school principals interpreted and/or translated legal instruments in compliance with empowering provisions in the process of making decisions that were lawful, reasonable and procedurally fair.

Interpretive mode research starts out with the assumption that access to reality (given or socially constructed) is only through social constructions such as language, consciousness and shared meanings. It was fundamental to identify and select the most appropriate modes of gathering data. Five research methods were found to be most suitable, namely questionnaires, structured interviews, the reflectico-appraisal log method, content analysis and document analysis. Advantages of the selected methods were discussed in this chapter.

Sampling and data analysis methods were also identified and discussed in this chapter. The next chapter discusses data analysis and interpretation.

Chapter 4: Data analysis and interpretation

4.1 Introduction

The research centred on the impact of the Education Laws Amendment Act, 50 of 2002, concerning admissions in public schools, on the craft-competency and craft-literacy of school principals in compliance thereof.

The rest of this chapter contains an analysis and interpretation of data gathered using a number of data collection instruments namely:

- a) Questionnaires
- b) Literature review
- c) Interviews (structured and unstructured)
- d) Document analysis
- e) Reflectico-appraisal inventory log method

4.2 Questionnaires

4.2.1 Return rate

Forty-six (46) questionnaires (see annexure 3) were delivered to ten (10) different sites. School principals, deputy principals as well as two (2) senior members of the school management team (SMT) were the respondents. Two (2) sites in Kempton Park returned ten (10) questionnaires with the covering notes confirming that they were totally at sea about case law in particular and other legal instruments in general (22%). They indicated that they knew nothing about law and were not in a position to take part in the study. One (1) questionnaire was never returned (2%). Three (3) sites are located in Tembisa and the rest in Kempton Park City and its surrounding suburbs. Thirty-five (35) questionnaires were duly completed (76%).

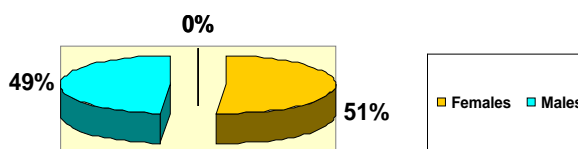
The questionnaire was divided into three (3) distinct categories. Each category was designed to gather specific information, namely biographical data, working knowledge of the law and policy as well as operational craft-competency and craft-literacy on the part of the participants in complying with one specific empowering provision, the admissions policy, in correct administrative actions.

The percentage return rate on the survey that was conducted was 76%. This return rate can be considered as quite good. The high response can be attributed to the fact that respondents might have considered this research relevant to their responsibility regarding law and policy interpretation and translation. Wilson (1996) (cited in Mann & Stewart, 2000) feels that, “neither market nor academic research will achieve good response rates if the research is not seen to be directly relevant to people's lives.” Another possible reason could be that respondents expected the research to offer them tools to approach issues of a legal and policy nature with confidence. Some were very curious to understand how administrative actions could be their core function and not that of the Department of Education. “We work with circulars, memoranda, policies from the Department”, one of the participants expressed his/her views (CQ(1) and CSI(1)) The majority held the opinion that administrative functions lay with the Department of Education and theirs was simply to manage their schools (BQ(1) and EQ(1)).

4.2.2 Biographical findings

Thirty-five (35) participants responded to the questionnaires. Of the said figure, seventeen (17) were males (49%) and eighteen (18) females (51%). Figure 4.1 shows the gender distribution.

Figure 4.1: Gender



The Gauteng Department of Education in its Annual Report on the 2005/6 Financial Year, including Audited Financial Statements, (PR 152/2006), states that (a) 68% of the principals in public ordinary schools are males and 32% are females; (b) 60% of Deputy Principals are males and 40% females; and (c) 35% of Head of Departments are males and 65% are females. There are more female Head of Departments (HODs) than their male counterparts. The gender distribution found in this specific sample therefore differs significantly from the provincial average. In some of the items below (see paragraph 4.2.3 and further) differences between the responses from male and female respondents are indicated and analysed.

4.2.3 Ages of participants

(a) Three (3) respondents (9%) were between 31 and 35, (b) one (1) (3%) was between 36 and 40, (c) three (3) (9%) were between 41 and 45, (d) three (3) (9%) were between 46 and 50, (e) twenty (20) (57%) were between 51 and 55, (f) three (3) (9%) were between 56 and 60 and (g) two (2) (6%) were 61 and above. Table 4.1 shows the ages of participants in ranges. Respondents are grouped according to their age ranges (see table 4.1).

Table 4.1: Ages of participants in ranges

Age in years	18 – 24	25 – 30	31 – 35	36 – 40	41 – 45	46 – 50	51 – 55	56 – 60	61+
No. of respondents	0	0	3	1	3	3	20	3	2

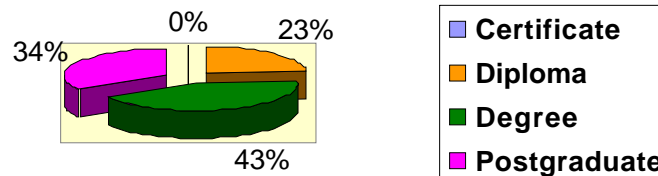
It appears as if (20) (57%) of the principals and the school management teams were between fifty-one (51) and fifty-five (55) years of age. One could conclude that these respondents received their teacher training well before 1994. It could then be assumed that the kind of training they received did not include

programmes on administrative management which included Education Law and Policy.

4.2.4 Academic qualifications of participants

Eight (8) (23%) participants hold diplomas, fifteen (15) (43%) have degrees and twelve (12) (34%) have postgraduate qualifications. The academic qualifications of participants are shown in figure 4.2

Figure 4.2: Academic qualifications of participants



These respondents are highly qualified. Since the research established that the majority of the respondents were not craft-literate and craft-competent to administer legal instruments in schools (see paragraph 4.3), it could be concluded that the degrees they hold could probably be linked to specific academic subjects taught in schools or did not cover content on law and policy translation and interpretation in schools to a significant degree.

4.2.5 Professional teaching experience

(a) No respondent had less than five (5) years of teaching experience. (b) Two (2) (6%) had between six (6) and ten (10) years. (c) There were no respondents who had between eleven (11) and fifteen (15) years. (d) Four (4) (11%) had between sixteen (16) and twenty (20) years. (e) Four (4) (11%) had between twenty-one (21) and twenty-five (25) years. (f) Fifteen (15) (44%) had between twenty-six (26) and thirty (30) years. (g) Six (6) (17%) had between thirty-one

(31) and thirty-five (35) years. (h) None had between thirty-six (36) and forty (40) years and (i) four (4) (11%) had more than forty-one 41 years of teaching experience. Table 4.2 shows the teaching experience of participants.

Table 4.2: Years of teaching experience

Teaching experience in years	0 – 5	6 – 10	11 – 15	16 – 20	21 – 25	26 – 30	31 – 35	36 – 40	40 +
No. of respondents	0	2	0	4	4	15	6	0	4

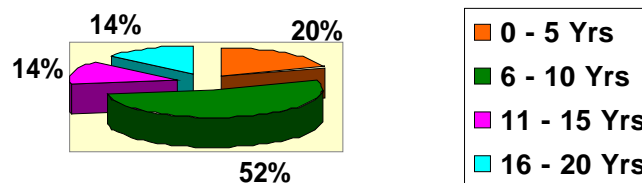
Fifteen (15) of the principals had been in the teaching service for between twenty-six (26) and thirty (30) years. After close analysis of data and the interaction with the respondents, the impression was that the kind of teacher education or training they received did not include administrative management that incorporated education law and policy studies. “No one was trained to become a principal but we were selected because we were experienced teachers”, one respondent remarked (BQ(2.1), (CQ(1) and JQ(1)). The same respondents who were not craft-literate and craft-competent in dealing with administrative management issues were promoted based on their teaching experience. Chapter B, paragraph 2.2 (a) (i) of The Employment of Educators Act, 76 of 1998 stipulates the minimum requirements for an educator to be employed. These classroom practitioners believed that law translation and interpretation was the preserve of the Departments of Education (DSI(1) and ER(1)). This can be linked to the way they put emphasis on the circulars rather than laws and policies available in schools. They do not know that circulars have to be in line with the law in order for it to be implementable. It can be assumed that very little in terms of capacity building initiatives was instituted in order to equip the newly promoted principals (see paragraph 4.3.6, KSI(2.2) and FQ(1)). It appears from 1996 very little has been done in the form of “in service training”

to equip principals with skills (see paragraphs 4.3.4, 4.3.6, JQ(2.1) and DSI(1)), but still principals are expected to be craft-literate and craft-competent in complying with law and policy.

4.2.6 Experience as school managers

(a) Seven (7) respondents (20%) had between zero (0) and five (5) years of experience. (b) Eighteen (18) (52%) had six (6) to ten (10) years. (c) Five (5) (14%) had between eleven (11) and fifteen (15) years and (d) five (5) (14%) had between sixteen (16) and twenty (20) years. Respondents' years of experience as principals are shown in figure 4.3.

Figure 4.3: Experience as a principal in years



Despite the fact that eighteen (18) (52%) of the respondents were appointed after 1994, they remain ignorant or uninformed about the importance of knowing how to work with legislative instruments at school level (paragraph 4.2.6, figure 4.3). They looked bemused during interview sessions when reminded that their core functions included carrying out administrative actions in their respective schools. "That is the department's responsibility and not mine," one respondent retorted during a structured interview session (ASI(1), FSI(1) and ESI(1)). Most of these principals are not doing anything to upgrade their qualifications. "There is no financial incentive to do that. My salary does not improve a bit," some participants remarked (CSI(1), HSI(1) and GSI(1)).

4.3 Knowledge of empowering provisions (statutes, case law, policies, etc.)

4.3.1 Knowledge of the case *Minister of Education v Harris 2001 (4) SA 1297(CC)*

- a) Twelve (12) (34%) said they knew nothing about the case.
- b) Sixteen (16) (46%) said they had seen and read parts of it.
- c) Four (4) (11%) said they had read all of it.
- d) One (1) (3%) said (s)he had a copy but did not refer to it at work.
- e) Only two (2) (6%) claimed they referred to it on a regular basis.

Table 4.3 shows respondents' perceived knowledge of the case.

Table 4.3: Knowledge of the case

Responses	%	Total No. of responses
I don't know much about it	34	12
I have seen it and read parts of it	46	16
I have it and read all of it	11	4
I have a copy of it but I don't use it in my course of work	3	1
I work with it on a regular basis in the course of my work	6	2
Total	100	35

Twelve (12) (34%) of the respondents claimed that they knew nothing of the case (see paragraph 4.3.1 and table 4.3). It can then be assumed that they did not consider it important to follow such cases that involved education institutions as they thought it was the challenge that involved the Education Departments as they hoped the decision would be disseminated to them in due course by their respective departments (see paragraph 4.3.7). Forty six percent (46%) were

only keen to follow such cases so they would be careful not to commit the same errors (see table 4.3 as extracted from questionnaire question 9). “We get instructions through circulars and memos,” one respondent remarked (IQ(1)). It would appear that the majority of the principals do not take time to study the legal instruments they are meant to comply with, as long as there is no instruction from the Department of Education. Table 4.5 (paragraph 4.3.3) clearly indicates that the reason behind that is the principals’ lack of craft-literacy and craft-competency skills because they claimed that they were not at all equipped to take administrative actions that are legal, reasonable and procedurally fair.

4.3.2 Familiarity with the existence of The Education Laws Amendment Act, 2002, which amended section 5 (4) of Schools Act, 84 of 1996

- a) Eight (8) respondents (23%) said they knew nothing about it.
- b) Fourteen (14) (40%) said they had seen a copy and read parts of it.
- c) Seven (7) (20%) claimed they had read all of it.
- d) One (1) (3%) said (s)he had a copy but did not use it in the course of her/his work.
- e) Five (5) (14%) said they worked with it everyday.

Table 4.4 shows respondents' familiarity with the existence of the Education Laws Amendment Act of 2002.

Table 4.4: Familiarity with the existence of The Education Laws Amendment Act, 2002

Responses	%	Total No. of responses
I don't know much about it	23	8
I have seen it and read parts of it	40	14
I have it and read all of it	20	7
I have a copy of it but I don't use it in my course of work	3	1
I work with it on a regular basis in the course of my work	14	5
Total	100	35

It clearly shows that principals do not refer to The Education Laws Amendment Act, 50 of 2002 when admitting learners in schools as could be expected. In light of the case *S v De Blom*, (1977) (3) SA 513 (AD), which decided in 1977 that ignorance of the law might even provide an excuse for otherwise criminal behaviour, based on the precept that legal policy demands the abolition of a principle that is manifestly unjust in the majority of cases. Eighty six percent (86%) of the respondents do not use the Act on a regular basis to take administrative decisions. The findings, therefore, might imply the respondents' decisions transgress law in one way or the other. Ignorance of the law does not absolve them from committing crimes (PAJA, 3, 2000).

4.3.3 Ability to deal with the Education Laws Amendment Act, 50 of 2002

- a) Eighteen (18) (51%) said they were not at all equipped.
- b) Sixteen (16) (46%) said they were equipped.
- c) Only one (1) (4%) respondent said she/he was fully equipped.

Table 4.5 shows the participants' views of their competence in dealing with the Education laws amendment Act, 50 of 2002.

Table 4.5: Competence to deal with the Education Laws Amendment Act, 50 of 2002

Responses	%	Total No. of responses
Not at all equipped	51	18
Equipped	46	16
Fully equipped	3	1
Total	100	35

Thirty (30) (86%) respondents claimed that they were not familiar with the Act, meaning that they did not use the instrument on a regular basis¹. On the ability to deal with the same Act, sixteen (16) (46%) respondents claimed that they were fully equipped. A question was then posed to one of the respondents: "How can you be fully equipped to deal with the policy when you are not familiar with the Act?" The respondent replied: "As long as we get instructions from the Department of Education, we can manage." (FSI(1) and ISI(1).

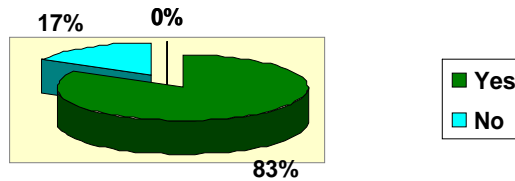
4.3.4 The need for staff development on translation and interpretation of legislative instruments

- a) Twenty-nine (29) (83%) indicated a need for staff development or further training.
- b) Six (6) (17%) felt no need for staff development.

Respondents' perceptions on staff development requirements are shown in figure 4.4

¹ It must be remembered that (70%) of the schools were former Model C schools. It seems as if there is no difference between the said schools and former DET schools in this regard.

Figure 4.4: Staff development requirements for principals



In paragraph 4.4.2 sixteen (16) (46%) of the respondents claimed that they were equipped to deal with relevant issues but paradoxically twenty (20) (83%) (see paragraph 4.3.4) wanted courses that would empower them on the translation and interpretation of law and policy. One quotation from the principal respondents reads: “There can be serious cases where staff members can find themselves on the receiving end of the law” (AQ(1) and GQ(1)). It clearly suggests that departmental needs analyses do not consider training of administrators of schools regarding this type of craft-competency and -literacy a priority. Section 33 (3) (c) of The Constitution of South Africa of 1996 provides that: “National legislation must be enacted to give effect to these rights and must promote an efficient administration”. The Promotion of Administrative Justice Act, 3 of 2000 in its preamble states that the purpose of the Act is *inter alia* to:

- Promote an efficient administration and good governance; and
- Create a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administration action.

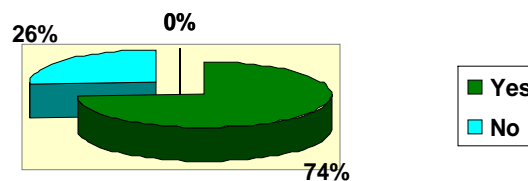
The data seems to suggest that little is done in the way of trying to promote an effective and efficient administrative management system that complies with law and policy in ordinary public schools. “... [it] will help us comply with the law and therefore prevent unnecessary litigation,” one principal responded when asked to provide a reason for advocating further training on how to handle law and policy (see paragraph 4.3.4, Figure 4.4)

4.3.5 Ability to handle legal matters at school level

- a) Twenty-six (26) (74%) respondents felt they were not well equipped to handle legal matters.
- b) Nine (9) (26%) respondents felt they were.

Figure 4.5 shows the perceptions of participants on competency.

Figure 4.5: Perceptions of participants on competency



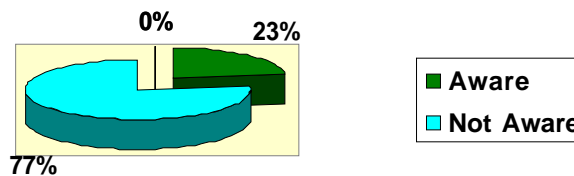
It is not surprising to note that twenty-six (26) (74%) of the respondents claimed they were unable to handle issues of a legal nature because (83%) of the participants claimed that they needed staff development courses (see paragraph 4.3.4, figure 4.5). On the other hand, it is equally important to note that whatever decisions principals make, have legal implications. Authority to adopt administrative actions must be based on power derived from empowering provisions. Instead, principals preferred to consult their unions on such issues for advice (see paragraph 4.3.5, figure 4.5). One principal commented: “It takes forever to get a positive response from the Department.” (JQ(1) and CSI(1)). There is a link between figures 4.4 and 4.5, paragraphs 4.3.4 and 4.3.5 as well as table 4.5, paragraph 4.3.3 in that (51%) of the respondents are not at all equipped to translate and interpret legal instruments. They therefore find it very difficult to take correct administrative actions as required by law. The level of craft-competency and craft-literacy is very low and they are keen to be inducted into the skills and knowledge on how to work with law and policy.

4.3.6 Awareness of any staff development/training courses organised by the Department of Education pertaining to law and policy compliance

- a) Eight (8) of the respondents (23%) said they were aware of such courses.
- b) Twenty-seven (27) respondents (77%) said they were not aware.

Awareness of staff development courses is shown in figure 4.6.

Figure 4.6: Awareness of staff development courses



Twenty-seven (27) respondents (77%) claimed that they were not aware of any staff development courses (refer to paragraph 4.3.6, figure 4.6). “Our teacher unions are in the forefront organising training courses for us and not the Department (EQ(1) and FSI(1). They only concentrate on money matters,” one respondent complained when asked about whether they were aware of any staff development courses pertaining to law and policy compliance (BQ(1), GSI(1) and FR(1).

4.3.7 The length of time taken to inform respondents of the changes about admissions in schools

- a) Eight (8) (23%) of the respondents said they were never informed.
- b) Twelve (12) (34%) said after some months.
- c) Eight (8) (23%) said after weeks.
- d) Four (4) (11%) said after days.
- e) Three (3) (9%) said immediately.

Table 4.6 shows the length of time it takes for schools to be informed.

Table 4.6: Length of time taken to be informed

Responses	%	Total No. of responses
Never informed	23	8
After months	34	12
After weeks	23	8
After days	11	4
Immediately	9	3
Total	100	35

On the time taken for the respondents to be informed, it is clear that principals were often informed of the changes after months. This makes it very difficult for the respondents to respond timeously to the changes at school level (see paragraph 4.3.7, table 4.6).

4.3.8 Information dissemination about the amendment

- a) Four (4) (11%) of the respondents said they were never informed.
- b) Three (3) (9%) said they had learned of the amendment through the media.
- c) Twelve (12) (34%) said they heard about it in a meeting.
- d) No one was informed by phone.
- e) Sixteen (16) (46%) said they were informed by a circular.

Modes of being informed are shown in table 4.7

Table 4.7: Modes of being informed

Responses	%	Total No. of responses
Never	11	4
Media	9	3
Meeting	34	12
Phone	0	0
Circular	46	16
Total	100	35

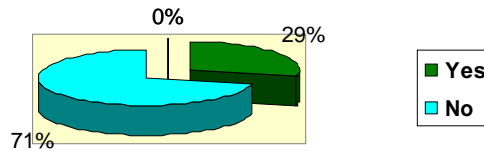
The majority of the respondents were only informed of the changes through circulars. Circulars are not effective as they take time to be drafted, printed and subsequently distributed. “There is no legal department in the District to advise us on these issues. One of the (34%) respondents remarked on the questionnaire (CQ(1). ‘We rely on our unions for help’”. (see paragraph 4.3.8, table 4.7, HQ(1). Circulars can only be effective if they are meant to augment the core functions of principals who are already craft-literate and craft-competent on case law compliance.

4.3.9 Knowledge of administrative action

- a) Ten (10) (29%) of the respondents said they had knowledge of administrative action.
- b) Twenty-five (25) (71%) said they knew nothing about administrative action.

Figure 4.7 shows respondents' perceived knowledge of administrative action.

Figure 4.7: Perceived knowledge of administrative action



Chapter 4 paragraph 4.2 part (d) of the Employment of Educators Act, 76 of 1998 provides, “The duties and responsibilities of educators in particular those of school principals are detailed in Chapter 4 under paragraph 4.2 part (d);

- To ensure that the school is managed satisfactorily and in compliance with applicable legislation, regulations and personnel administration measures as prescribed.
- To ensure that the education of learners is promoted in a proper manner and in accordance with approved policies.”

If twenty-five (25) (71%) do not know what administrative action is, they are not able to comply with Chapter 4 paragraph 4.2 part (d) of the Employment of Educators Act, 76 of 1998. Only two (2) respondents (6%) were able to explain what administrative action was. Twenty-three percent (23%) of the participants were not in a position to define the term. The following was one of the definitions of administrative action given by one of the participants in response to a question in the questionnaire (see paragraph 4.3.9, figure 7): “Government recording on the circumstances should be made available for court cases” (FQ(1), CR(1) and GSI(1)). It simply indicated that public school principals rely heavily on instructions from the Department of Education without bothering to find out the legalities of such instructions. Legislative instruments in the form of policies and Acts related to education are readily available in schools but are rarely consulted to check whether their administrative actions are in line with any of the empowering provisions. In one instance a case was witnessed where a learner, who requested permission to be enrolled in one of the schools, was instead

referred to the Department of Education for a decision to be taken. The principal did not even bother to use an admissions policy and/or the Schools Act, 84 of 1996 to arrive at a decision. Paragraph 4.3.2, table 4.4 show that legal instruments sent to schools are simply filed away (see paragraph 4.3.1, table 4.3). Forty percent (40%) claimed that they had seen the Education Laws Amendment Act and read parts of it. This reinforced the assumption that participants only work on what the Departments of Education instruct them to do.

4.3.10 Frequency of referrals of legal matters to the Department of Education for clarification

- a) Two (2) (6%) said they always referred matters.
- b) Two (2) (6%) said they regularly referred matters.
- c) Seventeen (17) (48%) said they sometimes referred matters.
- d) Fourteen (14) (40%) said they were not sure.

Table 4.8 shows the frequency of referrals of legal matters to the Department of Education.

Table 4.8: Frequency of referrals of legal matters to the Department of Education

Responses	%	Total No. of responses
Always	5.5	2
Regularly	5.5	2
Sometimes	49	17
Not sure	40	14
Total	100	35

As indicated earlier on, respondents corroborated each other on the point that they preferred consulting their unions rather than the Department of Education for assistance. They sometimes referred issues of a legal nature to it as the last

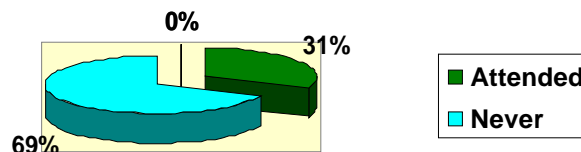
resort. Respondents do not feel confident enough to communicate with the Department on a regular basis. (see paragraph 4.3.10, table 4.8). Only 6% claimed that they communicated with the Department of Education on a regular basis and a large number 48% claimed that they did not. On admissions, principals often receive instructions from the Department of Education to place learners in their schools instead of working with their Governing Bodies and using the empowering provisions available in schools. In paragraph 4.3.2, table 4.4, 86% of the participants claimed that they did not work with the Education Laws Amendment Act, 50 of 2002 and they were informed through circulars and meetings as confirmed by about 80% of them. (see paragraph 4.3.8, table 4.7).

4.3.11 Attendance of training courses on translation and interpretation of legislative instruments

- a) Eleven (11) (31%) of the respondents said they attended once.
- b) Twenty four (24) (69%) of the respondents said they never attended.

The attendance of training courses is shown in figure 4.8.

Figure 4.8: Attendance of training courses



There was hardly any training course on the translation and interpretation of legislative instruments organised by the Department for the participants (see paragraph 4.3.6). It appears that the training of principals on law and policy is not a priority with the Department of Education. “Only the help of the juristic committee of the Governing Body affect (s) what I should do,” one respondent said (JQ(1)). Even if courses were organised they were only in relation to other issues not related to law and policy compliance. Respondents need capacity

building that empowers them to function independently when taking correct administrative actions at school level as expected in democracy.

4.4 Summary of results

Participants were evenly representative of gender: females were eighteen (18) and males were seventeen (17). The research covered both former model C schools (70%) and former DET schools (30%) (see table 1.1). Twenty (20) (57%) of the participants were aged between fifty-one (51) and fifty-five (55) (see paragraph 4.2.3, table 4.1). Twenty-seven (27) (77%) held degrees and out of these, twelve (12) (34%) held postgraduate qualifications. This implies that the majority of the participants were highly qualified. Nineteen (19) (54%) were in the teaching profession for years ranging from sixteen (16) to thirty (30) years. Twenty-three (23) (66%) of the participants had been in positions of principal between six (6) to fifteen (15) years (in other words they had served in the “new” dispensation under the new Constitution and new legal provisions.) Eighteen (18) (72%) of the respondents had no knowledge of the case law while four (4) (16%) had a vague idea of it. Only two (2) (8%) said they worked with it regularly. Thirteen (13) (52%) said they were not familiar with the Education Laws Amendment Act, 50 of 2002. Six (6) (24%) claimed that they have not seen it but only read about it. Five (5) (24%) claimed they worked with it on a regular basis.

Twelve (12) (51%) claimed they were not fully equipped to deal with legal matters and another 46% said they were equipped. Only one (1) (4%) said he/she was fully equipped.

Nineteen (19) (83%) said they needed staff development initiatives on how to handle legal issues. Only 17% thought they did not need any training. Seventy four percent (74%) overall claimed that they were not adequately equipped to work with laws at school level. Twenty six percent (26%) said they were equipped. Information dissemination was only made in meetings organised by

the principals' organisations. Circulars were only sent to schools after months meaning they were using information obtained from meetings. Interestingly, seventeen (17) (49%) claimed they sometimes referred legal issues to the department.

The question was then posed during structured interview sessions (see paragraph 4.3.10) as to why they rarely referred legal issues to the Department of Education when they claimed that they were ill equipped. The response was that they preferred unions as they believed they were "better" informed. Seventy one percent (71%) said they did not know about "administrative action" and twenty nine percent (29%) claimed they knew about it (see paragraph 4.3.9, figure 4.7). Out of twenty nine percent (29%) only two (2) (8%) were able to adequately explain.

In the process of interacting with the participants during research, the constant referral of legal issues to unions and/or service providers instead of the Department of Education became very noticeable (see paragraph 4.3.10, table 4.8). One respondent said: "I would rather seek advice from a competent person from the union who will give me the correct information than the Department of Education that will send me from pillar to post." (IQ(1), SI(1) and SI(2.1)) This explains why only 48% of the respondents claimed they sometimes refer cases of legal nature to the Department of Education.

4.4.1 Open-ended question responses

Those participants who felt that they needed further training were requested to justify their choices. Some of the responses were: "Staff development is necessary for the purpose of compliance with the law and also to minimise the chances of litigation against the school." (IQ(2.1)). Another one read: "We are only given documents but not training." (BSI(1)). "There is definitely a need for induction training courses for principals." (HQ(1)). A few commented that the

Department of Education assumes they were competent when in fact they were not (ASI(1), DSI(2.1) and ISI(2.2)).

Most participants indicated that they would rather consult their unions for advice than the Department of Education. Findings indicated that only a handful of principals (29%) had a working knowledge of the law and policy. It was also clear that they gained such knowledge by constantly and consistently keeping in touch with their unions. It became evident that unions even organised courses for their clients as well as keeping some principals informed about current trends in the education system. “I have attended a workshop organised by my principals’ union” (CSI(1)), one principal responded when asked about the kind of training they once attended. “It was an information sharing meeting”, was another response from the participant (HIS(1)).

During episodes of interview sessions in the data collection research phase, frustration and despondency among the participants could be sensed. They were blaming the Department for not providing adequate on the job support, except overloading them with circular after circular and memoranda. Because most of them are not craft-literate and craft-competent to work with legal matters, it became too difficult to translate and implement policies and law by complying with the procedures correctly as required by administrative justice. Those who had claimed knowledge of administrative action were unable to explain and/or practically demonstrate how it could be practised in schools. Very few bothered to check whether information contained in circulars complied with any one on the empowering provisions available in schools, for example the Schools Act, 84 of 1996; the Constitution of the Republic of South Africa of 1996; the Education Laws Amendment Act, 50 of 2002; the School Education Act, 1995 (Gauteng Province); the National Education Policy Act, 1996, etc. (see paragraph 4.3.1). Seventy four percent (74%) claimed they were not equipped to take correct administrative action and they had no knowledge of case law (see paragraph 4.3.1).

4.4.2 Structured and unstructured interview findings

The structured interviews were designed to gather complementary responses to claims made in the other data collecting instruments namely questionnaires, document analysis, structured and unstructured interviews and the reflectico-appraisal inventory log method. Discrepancies were picked up when participants were asked to clarify certain claims. It was clear the majority of respondents could not explain what administrative action was. “Government recording on the circumstances should be made available for court cases,” was the definition given by one principal (JSI(1)). The impression was that respondents did not know what administrative action was. The majority of the respondents did not respond to the part where they were asked to give a brief explanation of administrative action.

Twenty-eight (28) (80%) claimed that they had seen the Schools Act, 1996 and read part of it. It shows that the majority of the administrators in ordinary public schools do not consistently use legal instruments when taking administrative actions. There is a strong indication (refer to paragraphs 4.3.1 and 4.3.5) that the majority do not feel confident and competent enough to employ the use of the relevant empowering provisions to make correct decisions. Participants believed that policy and law translation and interpretation was not one of their core functions. “My job is more academic bearing in mind all the changes to our National Curriculum Statement (NCS)” (ESI(1)), one participant remarked (see paragraph 4.3.5)

Seventy four percent (74%) also claimed they were ill-equipped to handle legal issues and said they were not aware of any courses organised by the Department of Education that were designed to capacitate respondents on law translation and interpretation in order to help them to correctly administer law and policy in schools. The following was one of the very interesting comments: “Legal issues belong to the Department since they send us circulars and my job

is to manage my school and nothing more” (JSI(1)) (see paragraph 4.3.5). The biggest question was how they were exercising power and authority without being backed up by some legal provision! One participant remarked: “We have never been given any material dealing with case law in education” (FQ(1)). Some of the sentiments raised reinforced the need for capacity building on the part of participants on policy and law compliance. “Such information will help us comply with the law and therefore prevent unnecessary litigation” (GQ(1)). A very interesting issue was raised by one of the respondents: “Only if the necessary documentation could be accessed and be interacted with, then we will be better empowered to approach our tasks with confidence” (AQ(1) and DSI(1)). (also see paragraph 4.3.4). Policy files with relevant acts and policies are distributed to schools but principals do not refer to them for the purposes of taking administrative action (see paragraph 4.3.3).

4.4.3 Knowledge of the Education Laws Amendment Act, 50 of 2002 (case law)

Eighteen (18) (72%) claimed that they had no knowledge of section 5(4) of the Schools Act, 84 of 1996 as amended by the Education Laws Amendment Act, 50 of 2002 which contributed to the current changes of admissions to public schools (see paragraph 4.3.1). Thirteen (13) (52%) claimed they had only read part of it and they did not work with policy all the time. They depended entirely on circulars and memoranda sent to them by the Department of Education, as well as verifying such information with their unions. The changes were relayed to them after some months. The circular was only sent to schools some months later in preparation for registration and admission of learners in public ordinary schools. A number do not even know such case law existed. To them it was business as usual. It also emerged that principals from primary schools were aware of the policy since they used it when registering Grade 1 learners. High school participants were not aware of it since they only enrolled post Grade 7 learners.

4.4.4 Reflectico-inventory log method findings

Content analysis² is a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use. It provides new insights, increases a researcher's understanding of a particular phenomenon or informed practical actions (Krippendorff, 2003). Content analysis done on the inventory was meant to understand how principals carried out their administrative actions.

On close analysis of the contents, the majority of the respondents were able to record their decisions as requested. The return rate for completion and subsequent delivery of log books was 70%. Three (3) schools (30%) found it very difficult to complete as requested as they thought it was not easy to categorise decisions.

4.4.4.1 Record of administrative actions adopted

Participants produced very fascinating, but at times very contradictory records. For example, authorisation of expenditure was classified as general in the log book but during interview sessions the same decision was said to be of legal nature. The latter was the correct classification. After a close analysis of the content the following were some of the common examples of the decisions that were recorded:

- Admission of learners
- Authorisation of expenditure
- Allocation of duties
- Discipline of educators

² Content analysis, in this research, was used as a tool to determine the presence of certain words, concepts, themes, phrases, characters, or sentences within texts or sets of texts and to quantify this presence in an objective manner. Texts can be defined broadly as books, book chapters, essays, interviews, discussions, newspaper headlines and articles, historical documents, speeches, conversations, advertising, theatre, informal conversation, or really any occurrence of communicative language.

- Employment of temporary and substitute teachers

4.4.4.2 Categorisation of administrative actions

Five (5) (71%) were unable to separate legal decisions from general ones. For example, recordings such as, “approve leave applications” (FR(1)) “admissions of Grade 1” (DR(1)) “suspension of learners for serious misconduct” (BR(1)) were indicated as, “general decisions that have legal implications” (ER(1), CR(1) and FR(1). They cannot be of a general nature but have legal implications. All the decisions that were recorded were of a legal nature because they needed to comply with procedures as laid down in the Schools Act, rules and regulations, policies or other sources of empowering provisions. Any administrative action taken or otherwise by any public authority as required by The Promotion of Administrative Justice Act, 3 of 2000 should be in line with laid down procedures. There are no general administrative actions adopted in public offices. Every administrative action has to be in line with procedures in place.

Because of the lack of craft-competency and craft-literacy skills on the part of the participants on one hand and the complexity involved in the interpretation and translation of procedures on the other hand, participants preferred the idea of consulting with their unions. Twenty-seven (27) (77%) claimed they consulted the Department for clarity and direction on issues of policy and the correct interpretation of circulars. Participants alluded to the fact that in the majority of cases they rely on memoranda and circulars in order to take administrative actions. They agreed that other legal documents at their disposal are rarely used since translations and interpretations were difficult. “This is the job for the Department” (ER(1) one participant responded. Clearly they lacked working knowledge of the law and confidence in handling legal issues as they thought the Department of Education was the only competent body to deal with them.

4.4.4.3 Classification of administrative actions

The participants encountered problems categorising their administrative actions. Seventy-one percent (71%) of the participants claimed that the authorisation of expenditure in schools is of general nature but the fact of the matter is that the mandate is laid down in the Schools Act. There are norms and standards that regulate how monies can be used in Schools. The other omission was that participants also claimed that the employment of temporary and substitute teachers was a general decision, whereas procedures are laid down in the Employment of Educators Act, 76 of 1998. The fact that governing bodies have the mandate of selecting and submit names to the Departments of Education does not make that process of a general nature. They found it very difficult to give reasons for categorising their choices the way they did. They are used to completing forms as required by the Department of Education.

4.4.4.4 Sources consulted before arriving at a decision

All the principals concurred that before taking final administrative actions, more often than not, they liaise with the Department of Education and their unions. They also indicated that members of the SMT, governing bodies, parents and their respective Institution Development Support Officers (IDSO) were consulted. All of them indicated that they used the following documents before arriving at a decision: circulars, memoranda, general notices and policy documents. The rationale behind consultation is a constitutional and legislative requirement, but principals appear to use them because the Department of Education requires them to do so, as directed by specific circulars in circulation. They do not view their actions as exercises of power and authority as mandated by empowering provisions available in schools. The overall impression was that principals did not view administrative management as one of their core functions. They view their function as that of complying with instructions from the Department, as opposed to complying with constitutional requirements as enunciated in a host of

subordinate laws and policies. This indicated that principals were not craft-competent and craft-literate as well as confident enough to adopt correct administrative actions based on empowering legal instruments.

4.4.5 Document analysis findings

A document is defined as any symbolic representation and meaning that can be recorded and/or retrieved for analysis. Bryman (2004) views document analysis³ as a method that comprises of the searching out of underlying themes in the materials being analysed. It is an approach to documents that emphasises the role of the investigator in the construction of the meaning of and in texts.

A thorough analysis of text was done on minute files, field notes, questionnaires, structured interviews, reflectico-inventory log methods, open-ended questions and memoranda in order to clarify themes, frames and discourse. The analysis revealed that the issues were mostly related to management plans concerning timetabling, exams, supervision, discipline, invigilation where one would refer to them as housekeeping. The decisions were not linked to any empowering provisions available in schools. Teachers were merely told of the decisions made by the SMT.

Administrative discourse centred on the requirements with which the Department wanted schools to comply. One very interesting decision was that all marking was supposed to be completed by a specific day at 12 hours. A question was posed during a verification session: “What will happen should some teachers fail to complete the required marking as requested?” There was no mention of any legal action to be instituted should some teachers fail to complete their marking. Principals depended on their leadership styles to make teachers perform.

³ Qualitative document analysis involves emergent and theoretical sampling (Glaser & Strauss 1967) of documents from information bases (including those developed by a researcher, e.g. field notes), development of a protocol for more systematic analysis, and then constant comparisons to clarify themes, frames, and discourse.

4.5 Conclusion

This chapter dealt with data analysis and interpretation. Data collected from ten (10) schools located in Kempton Park City and Tembisa within the Ekurhuleni West District in Gauteng Province was analysed fully. Significant quotations from participants were recorded in the data bank. What came out clearly was that the majority of the participants were not craft-competent and craft-literate to handle issues of legal nature in schools. Respondents felt that law application was not their core function in schools. They felt much more confident to liaise with their unions in order to take correct administrative actions. In most cases the majority of the participants could not say what administrative action was and as such could not ascertain whether administrative actions were lawful, reasonable and procedurally fair. It is also clear that the decisions of principals, in the process of exercising power and authority, must be based on the empowering provisions available in schools. It was clear that there were no effective channels of communication between the Department of Education and the schools. “Sometimes it is pointless to phone the Department because nobody seems to know what accurate responses to give” (DQ(1)) one respondent wrote in the questionnaire. Participants really seem to need capacity development courses to assist them to cope with issues of a legal nature.

The next chapter comprises of an overview, findings, conclusions and recommendations.

Chapter 5: Overview, findings, conclusions and recommendations

5.1 Introduction

This chapter provides an overview of the research, findings, conclusions and recommendations. The research was intended to investigate the craft-competency and craft-literacy of public school principals as regards the correct adoption of administrative actions that are lawful, reasonable and procedurally fair. Due to a number of court cases (see Chapters 2 and 3) challenging the legality of the administrative actions adopted and/or the constitutionality of such actions taken by public officials directed at the members of the public, there was a need to investigate whether public school principals were satisfactorily informed about case law. The research intended to determine the capacity of school principals to comply with the case CCT13/01 (*Doreen Harris versus the Department of Education*) as it effectively amended the admissions policy in schools.

5.2 Overview

Chapter 1 discusses the research framework and focus by outlining the research problem, the research question and its sub-questions. It provides an overview of the literature and maps the research design.

Chapter 2 provides an exploration and explanation of the two concepts, craft-competency and craft-literacy in context. It closely looks at the relationship, correlation and functions of craft-competency and craft-literacy as applied in administrative management practices at school level. Administrative action is defined and other related terms elaborated in context.

Chapter 3 discusses the research design and methods used. It explores the appropriateness of a qualitative case study approach as well as the interpretive

paradigm. Five data collection techniques are identified, namely a questionnaire, literature review, interviews, document analysis and the reflectico-inventory log method.

Chapter 4 contains the data analysis and interpretation.

5.3 Findings

Fundamental to any qualitative interpretive case study, research is the identification of and the subsequent use of the most appropriate data collection method(s) as well as the use of in-depth data analysis techniques that accurately and critically provide possible answers to the research question. Data analysis began informally during interviews, observations and continued during transcription, when recurring themes, patterns, and categories became evident. Written records were available. Analysis involved the coding of data and the identification of salient points or structures. A descriptive/interpretive approach was used to interpret collected data.

It was found that the majority of the principals were males and most of the females were members of the school management teams (see paragraph 4.2.1). Most principals had between them teaching experience ranging from twenty-six (26) to thirty (30) years (see Chapter 4, paragraph 4.2.3). Most of them were well qualified (77%). As indicated in Chapter 1, the main focus was to determine the craft-competency and craft-literacy of public school principals in the way they adopt correct administrative actions that are lawful, reasonable and procedurally fair. However the majority of the principals do not seem to be craft-competent and craft-literate to handle legal issues at school level. They are not familiar with empowering provisions such as The Education Laws Amendment Act, 50 Of 2002 as required by law. Although well experienced as school managers, they were found wanting in taking correct administrative actions that were legal, reasonable and procedurally fair.

The majority of the respondents did not know what administrative action was. It was found that they consulted before taking legal decisions. They preferred liaising with their unions to their Department of Education.

5.4 Conclusion

It seems the assumption that public school principals were not craft-competent and craft-literate to adopt correct administrative actions when working with case law in public schools was correct. It found that principals do not have the working knowledge of law. It was also found that they consulted with their unions and other sources before adopting administrative actions.

5.5 Limitations

The limitations discussed below do not, in any way, hamper the overall intended outcome of the research. Even if the intended objectives of the research were achieved, they are, however, notable limitations:

- The research covered only (10) schools in Ekurhuleni West district which amounted to a small sample.
- All of these schools happen to be situated in an urban environment and excluded schools in the rural setup.
- Other stakeholders such as teachers, learners, governing body members and the Department of Education were left out.
- The research only looked at the translation and interpretation of case law and did not include other laws in general.
- The aim was not to generalise on how principals work with laws and policies in schools but to use the interpretive case study to determine the craft-competency and craft-literacy of these professionals in the way they handle case law.
- There was a preponderance of former model C schools.

5.6 Significance of the study

In *S v De Blom* 1977 (3) SA 513 (AD), it was decided that professionals need to keep abreast with legal provisions pertaining to their profession. Significant to the findings was that principals were not craft-competent and craft-literate to adopt correct administrative actions that are lawful, reasonable and procedurally fair. Principals are expected to be effective in the process of administering their schools by making decisions that have an authoritative basis, derived from empowering provisions as demanded by The Employment of Educators Act, 76 of 1998. The study shows that principals who are not craft-competent and craft-literate, lack an important aspect of the characteristics of an effective manager. The decisions they make might prove to be very expensive in the process. Administrative actions that are not in line with applicable legislation, regulations and other legislative instruments are often challenged in courts of law as provided for by section 34 of The South African Constitution, 1996. Incorrectly taken administrative actions might be detrimental to the education of children, as their rights will be infringed upon, interests ignored and the education system loses credibility in the process.

The Employment of Educators Act 76 of 1998, Chapter A, section 4.2, sub-section (b) articles (i) and (ii) prescribe the following aims of such courses:

- (i) To ensure that the school is managed effectively and in compliance with applicable legislation, regulations and personnel administration measures as prescribed.
- (ii) To ensure that the education of the learners is promoted in a proper manner and in accordance with approved policies.

The study found that principals require capacity support in the form of training, for them to be able to effectively comply with legal instruments in schools. The Act, as indicated above, makes provisions for such undertakings to be carried out. If such training initiatives are not organised by the employer, principals will

continue to rely on their unions for advice and direction. Principals' decisions are invariably of legal nature and failure to capacitate them might mean that they will continue making decisions that are not within the law.

5.7 Recommendations

Two types of recommendations are discussed under the following two sub-headings: recommendations for the improvement of practice and recommendations for further study. The former discusses recommendations based on the findings and offers some solutions to the challenges faced by the participants, and the latter suggests avenues or dimensions future research can follow as well as pointers to what can be pursued by other researchers.

5.7.1 Recommendations for improvement of practice

The following recommendations are suggested after the research findings:

- The Department of Education should institute support and advocacy structures for effective communication on the correct adoption of administrative actions in compliance with legal instruments to educators in schools.
- The Department of Education should empower public school principals by organising staff development initiatives that inspire confidence in them to handle issues of legal nature.
- Effective communication and involvement need to be maintained between and within all institutions which are involved in the correct translation and interpretation of law and policy, in order to arrive at correct administrative actions.
- Departments of Education should provide more opportunities for principals, teachers and students to discuss and reflect upon their work with others who are likewise involved in law advocacy in a democracy.

5.7.2 Recommendations for further study

The most significant implication of the results of this study is that law and policy compliance in education institutions can be scientifically studied and that it is feasible to build a model of law and policy compliance based on empirical observation. This particular model requires further research in order to identify and describe the remaining components of law and policy compliance framework (i.e. translation, interpretation and experiences). The results of this study have established a strong foundation upon which to build the remaining components of the law and policy compliance framework. Further studies can be done on how principals translate specific legal instruments in schools such as PAJA, HIV and Aids, safety in schools and language policy among others.

Further investigation is needed into the role of teacher organisations and/or unions in the way they assist principals in the correct interpretation and translation of law in schools. It was noted during research that principals preferred liaising with their organisations than with the Department of Education for correct compliance with the law.

5.8 Conclusion

The advent of the new democratic dispensation requires craft-competent and craft-literate public service officials who are able to translate and interpret empowering provisions correctly, in order to craft lawful, reasonable and procedurally fair administrative actions. As principals begin to exercise power and authority in their quest to move administrative management processes forward in a democracy, it is important that their decisions comply with legislation, regulations and other applicable legal instruments. However, research findings indicate that principals are not craft-competent and craft-literate enough to handle issues of legal nature in schools and this has a negative effect on the

accuracy of the administrative actions they adopt in schools. Chances are that the decisions they make violate the children's rights.

Bibliography

Case law

S v De Blom, 1977 (3) SA 513 (AD)

Matukane and Others v Laerskool Potgietersrus 1996 (3) SA 223 (T)

Minister of Education v Harris 2001 (4) SA 1297 (CC)

Schoombie and Others v MEC for Education, Mpumalanga and Another 2002 (4) SA 877 (T)

Minister of Education and Another v Wynkwart No 2004 (3) SA 577 (C)

Legislation

Republic of South Africa. 1988. Education Affairs Act, (House of Assembly) 70 of 1988

Gauteng Provincial Legislature 1995. School Education Act, 1995. Act, 6 of 1995.

Republic of South Africa. 1996. The Constitution of the Republic of South Africa Act, 108 of 1996.

Republic of South Africa. 1996. National Education Policy Act, 27 of 1996.

Republic of South Africa. 1996. South African Schools Act, 84 of 1996.

Republic of South Africa. 1998. Employment of Educators Act, 76 of 1998.

Republic of South Africa. 2000. The Promotion of Administrative Justice Act, 3. Act of 2000.

Republic of South Africa. 2002. Education Laws Amendment Act, 50 of 2002.

World Wide Web Page Articles

Asmal, K (2001) in Department of Education annual report 2001-2002 (2002) [Online] Available from < <http://www.education.pwn.gov.za/> > Retrieved June, 10, 2006

Department of Justice (2000) [Online] The Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) Available from <www.doj.gov.za/> Retrieved June 26, 2006

Mayers M.D. (1997) [Online] *References on Interpretive research*. Available from www.qual.auckland.ac.nz/interp.htm Retrieved December 22, 2006

Mayring, P. (2000) [Online] Qualitative Content Analysis. *Forum: Qualitative Social Research*. Available from < <http://www.qualitative-research.net/fqs-texte/2-00/2-00mayring-e.htm> > Retrieved October 5, 2005

Tellis W. (1997) Introduction to case study *The Qualitative Report*, Volume 3, Number 2. Available from < <http://www.nova.edu/ssss/QR/QR3-2/tellis1.html> > Retrieved December 22, 2006

Articles, books and documents

Airasian, P. and Gay, L.R (2003) Educational research competencies for analysis and applications. New Jersey: Merrill Prentice Hall.

Ary, D; Jacobs, L.C. & Razavich (1990) Introduction to research in education. Florida: Holt, Rinehart and Winston, Inc.

Babbie, Earl (2001) The practice of social research (9th ed.). Belmont: Wadsworth.

Baxter, Lawrence (1984) Administrative law. Cape Town: Juta.

Becker, Thomas E. (2005) Organisational research methods. New York: Sage Publications.

Berelson, Bernard Reuben (1971) *Content analysis in communication research*. New York: Hafner.

Benbasat, Izak, Goldstein, David. K. and Mead, Melissa (1987) The case strategy in studies of information systems. *Information Science. MIS Quarterly*, Vol. 11, No. 3 (pp 369-386).

Bennis, W. (1989) *Why leaders can't lead*. San Francisco: Jossey-Bass

Black, S. (1998) A different kind of leader. *American School Board Journal*. Vol. 185, No.6 (32-35).

Bles, C. and Smith, Higson, C. (1995) *Fundamentals of social research method*, (2nd ed). Cape Town: Juta and Co.

Bleicher, J.(1980) *Contemporary Hermeneutics: Hermeneutics as Method, Philosophy and Critique*. London and Boston: Routledge & Kegan Paul.

Bogden, R.C and Biklen, S.K (1982) *Qualitative research for education: An introduction to theory and methods*. Boston: Allyn and Bacon, Inc.

Boland, R. (1985) "Phenomenology: A Preferred Approach to Research in Information Systems," in *Research Methods in Information Systems*, E. Mumford, R.A. Hirschheim, G. Fitzgerald, and T. Wood Harper (eds.). Amsterdam: North Holland.

Bray, W. (2000) *Foundations of law and Education Law*. Pretoria: CELP

Bryman, Alan (1992) Quantitative and qualitative research: further reflections on their integration. In Julia Brannen (Ed.), *Mixing methods: qualitative and quantitative research* (pp.57-78). Brookfield: Avebury.

Bryman, Alan (2004) *Social research methods* (2nd ed.). New York: Oxford University Press.

Burns, Yvonne (2003) *Administrative law under the 1996 Constitution* (2nd Edition). Durban: Butterworths.

Campbell, Donald T. and Russo, Jean M. (2001) "The qualitative case study" in *Social Experimentation*: Thousand Oaks, CA: Sage Publications.

Chisnall, P.M. (2004) *Marketing research* (7th ed). London: McGraw Hill.

Connelly, J.H. (Jr), Gibson, J.L. and Ivancevich, J.M. (1987) *Fundamentals of management functions: Behaviour models* (4th ed). Texas: Business Publications, Inc.

Cohen, Marion L. and Morrison, K. (2002) *Research methods in education* (5th ed). London: Routledge Falmer.

Creswell, John W. (2003) *Research design: Qualitative, quantitative, and mixed methods approaches* (2nd ed.). Thousand Oaks: Sage.

Denzin, Norman, K., & Lincoln, Yvonna S. (2000) *Introduction: The discipline and practice of qualitative research*. In Norman K. Denzin & Yvonna S. Lincoln (eds.), *Handbook of qualitative research* Thousand Oaks: Sage.

Drucker, P.F. (1989) *The effective executive*. London: Pan Books.

Dworkin, R. (1986) *Law's empire*. Cambridge, MA: Harvard University Press.

Eisner, E, and Peshkin, A (eds) (1990) *Qualitative inquiry in Education*. New York: Teachers College Press.

Fairclough, Norman (2003) *Analysing discourse textual analysis for social research*. London: Routledge

Fink, E. and Resnick, L.B. (2001) *Developing principals as instructional leaders*. Pittsburgh, CA: University of Pittsburgh

Fowler, F.J. (1984) *Survey research methods*. London: Sage.

Flyvberg, B. (2006) Five misunderstandings about case study research qualitative inquiry. Beverly Hills, CA: Sage Publications.

Gadamer, H-G. (1976) "The Historicity of Understanding," in Critical Sociology, Selected Readings, P. Connerton (ed.). Harmondsworth: Penguin Books Ltd.

Genesereth, M. and Nilsson, N. (1987) Logical foundations intelligence. Los Altos, CA: Morgan Kaufman

Gillham, Bill (2000) Case study research methods. London: Continuum.

Gomm, Roger, Hammersley, Martyn, & Foster, Peter (Eds.) (2000) Case study method, key issues, key texts. London: Sage.

Gruber Tom R. (1993) A translation approach to portable ontology specifications. Stanford: Academic Press.

Guarino, N and Musen, M. (2005) Applied ontology: Focusing on content. California: Thousand Oaks.

Hamel, Jacques (1993) Case study methods. Thousand Oaks: Sage.

Hammersley, Martyn (1992) Deconstructing the qualitative-quantitative divide. In Julia Brannen (Ed.), Mixing methods: qualitative and quantitative research. Brookfield: Avebury.

Hansen, M. (1979) Educational administration and organisational behaviour. Massachusetts: Allyn and Bacon.

Higgs, J. (2004) Charting stand points in qualitative research. Oxford: Butterworth Heinemann.

Ioannidis, J.P. (2005) Why most published research findings are false. *Plos medicine*, Vol. 2, No. 8 (e124)

Hartley, Jean (2004) Case study research. In Catherine Cassell & Gillian Symon (eds.), *Essential guide to qualitative methods in organizational research*. London: Sage.

Jick, Todd D (1979) Mixing qualitative and quantitative methods: Triangulation in action. *Administrative Science Quarterly*. Vol. 24, No. 4 (602-611)

Johnson, S.D. (1995) Will our research hold up under scrutiny? *Industrial Teacher Education*. Vol. 32, No.3 (3-6).

Koontz, H; O'Donnell, C and Wehrich, H (1984) (8th ed.) *Management*. New York: McGraw Hill.

Krippendorff, Klaus (2004) *Content analysis: An introduction to its methodology* (2nd ed.). Thousand Oaks: Sage.

Lincoln, Y.S. and Guba, E.G (1990) *Naturalistic inquiry*. Beverly Hills, CA: Sage Publications, Inc.

Mark, R. (1996) *Research made simple: A handbook for social workers*. Beverley Hills, CA: Sage Publications, Inc.

Marshall, Catherine and Rossman, G.B (2006) *Designing qualitative research*. London: Sage Publications.

McMillan, J.H. and Schumacher, S (2001). *Research in education: A conceptual introduction*. USA: Wesley Longman, Inc.

Merriam, S.B. (1998) *Qualitative research and case study applications in education*. New York: Jossey-Bass Inc. Publishers.

Mishler, E.G. (1986) *Qualitative data analysis: An expanded source book*. Thousand Oaks: Sage Publications.

Nilsson Karjermo (1987) *Critical issues in qualitative research methods*. London: Sage Publications.

Oosthuizen, I. J (2003) Aspects of education law. Pretoria: Van Schaik Publishers.

Patton, Eric, & Appelbaum, Steven H. (2003) The case for case studies in management research. *Management Research News*, Vol. 26. No.6 (pp60-71)

Phillips, N, and Hardy, C. (2002) Discourse analysis: Investigating process of social construction, London: Sage Publications.

Radnitzky, G. (1970) Contemporary Schools of Metascience, Goteborg: Scandinavian University Books.

Ricoeur, P. (1974) The Conflict of Interpretations: Essays in Hermeneutics, Evanston: North western University Press.

Ryan, Gery W., & Bernard, H. Russell (2000) Data management and analysis methods. In Norman K. Denzin & Yvonna S. Lincoln (eds.), Handbook of qualitative research. Thousand Oaks: Sage.

Sergiovanni, T.J. (2002) Leadership. New York: Routledge Falmer

Silverton, David (2005) Doing qualitative research. London: Sage

Sinclair, J. McH and Coulthard, R.M. (1975) Towards an analysis of discourse. London: Longman.

Sours, J.S (1997) A descriptive analysis of technical education learning styles. University of Arkansas. (Unpublished Doctoral Thesis)

Stake, Robert E. (1995) The Art of case study research. Thousand Oaks: Sage.

Stake, Robert E. (2000) Case studies. In Norman K. Denzin & Yvonna S. Lincoln (eds.), Handbook of qualitative research. Thousand Oaks: Sage.

Strauss, A., & Corbin, J. (1998) *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (2nd ed.). Thousand Oaks, CA: Sage.

Szilagyi, A.D (Jr) (1981) *Management and performance*. Glenview, Scott: Foresman and Company.

Taylor, C. (1976) "Hermeneutics and Politics," in *Critical Sociology, Selected Readings*, P. Connerton (ed.). Harmondsworth: Penguin Books Ltd.

Titscher, Stefan, Meyer, Michael, Wodak, Ruth, & Vetter, Eva (2000) *Methods of text and discourse analysis* (Bryan Jenner, Trans.). London: Sage.

Van der Westhuizen, P.C. (1991) *Effective educational management*. Pretoria: Haum.

Walsham, G. (1993) *Interpreting Information Systems in Organizations*, Wiley, Chichester, Weber, Robert P. (1992) *Basic content analysis* (2nd ed). Newbury: Sage Publications.

Wolcott, H.F (1992) *Writing up qualitative research* (Qualitative research method). London: Sage Publications.

Yin, Robert K. (2003a) *Case study research, design and methods* (3rd ed., vol. 5). Thousand Oaks: Sage.

Yin, Robert K. (2003b) *Applications of case study research* (2nd ed., vol. 34). Thousand Oaks: Sage.

Zajacova, A. (2002) *The background of discourse analysis: A new paradigm in Social Psychology*. *Journal of social distress and the homeless*, Vol. 11, No. 1 (25-40).



Annexures

Annexure 1

30-05-'06 12:20 FROM-

T-951 P02/03 U-039



UMnyango WezeMfundo
Department of Education

Lefapha la Thuto
Departement van Onderwys

Date:	26 May 2006
Name of Researcher:	Jabulani Nyoni
Address of Researcher:	12 Pelikaan Avenue
	Birch Acres
	1618
Telephone Number:	(011) 9763913/9724144
Fax Number:	(011) 3912530
Research Topic:	School principals craft competence and craft literacy in law and admission policies at school level
Number and type of schools:	5 Primary & 3 Secondary Schools
District/s/HO	Ekurhuleni West

Re: Approval in Respect of Request to Conduct Research

This letter serves to indicate that approval is hereby granted to the above-mentioned researcher to proceed with research in respect of the study indicated above. The onus rests with the researcher to negotiate appropriate and relevant time schedules with the school/s and/or offices involved to conduct the research. A separate copy of this letter must be presented to both the School (both Principal and SGB) and the District/Head Office Senior Manager confirming that permission has been granted for the research to be conducted.

Permission has been granted to proceed with the above study subject to the conditions listed below being met, and may be withdrawn should any of these conditions be flouted:

- 1. The District/Head Office Senior Manager/s concerned must be presented with a copy of this letter that would indicate that the said researcher/s has/have been granted permission from the Gauteng Department of Education to conduct the research study.*
- 2. The District/Head Office Senior Manager/s must be approached separately, and in writing, for permission to involve District/Head Office Officials in the project.*
- 3. A copy of this letter must be forwarded to the school principal and the chairperson of the School Governing Body (SGB) that would indicate that the researcher/s have been granted permission from the Gauteng Department of Education to conduct the research study.*



06 12:20 FROM-

T-951 P03/03 U-039

4. *A letter / document that outlines the purpose of the research and the anticipated outcomes of such research must be made available to the principals, SGBs and District/Head Office Senior Managers of the schools and districts/offices concerned, respectively.*
5. *The Researcher will make every effort obtain the goodwill and co-operation of all the GDE officials, principals, chairpersons of the SGBs, teachers and learners involved. Persons who offer their co-operation will not receive additional remuneration from the Department while those that opt not to participate will not be penalised in any way.*
6. *Research may only be conducted after school hours so that the normal school programme is not interrupted. The Principal (if at a school) and/or Senior Manager (if at a district/head office) must be consulted about an appropriate time when the researcher/s may carry out their research at the sites that they manage.*
7. *Research may only commence from the second week of February and must be concluded before the beginning of the last quarter of the academic year.*
8. *Items 6 and 7 will not apply to any research effort being undertaken on behalf of the GDE. Such research will have been commissioned and be paid for by the Gauteng Department of Education.*
9. *It is the researcher's responsibility to obtain written parental consent of all learners that are expected to participate in the study.*
10. *The researcher is responsible for supplying and utilising his/her own research resources, such as stationery, photocopies, transport, faxes and telephones and should not depend on the goodwill of the institutions and/or the offices visited for supplying such resources.*
11. *The names of the GDE officials, schools, principals, parents, teachers and learners that participate in the study may not appear in the research report without the written consent of each of these individuals and/or organisations.*
12. *On completion of the study the researcher must supply the Senior Manager: Strategic Policy Development, Management & Research Coordination with one Hard Cover bound and one Ring bound copy of the final, approved research report. The researcher would also provide the said manager with an electronic copy of the research abstract/summary and/or annotation.*
13. *The researcher may be expected to provide short presentations on the purpose, findings and recommendations of his/her research to both GDE officials and the schools concerned.*
14. *Should the researcher have been involved with research at a school and/or a district/head office level, the Senior Manager concerned must also be supplied with a brief summary of the purpose, findings and recommendations of the research study.*

The Gauteng Department of Education wishes you well in this important undertaking and looks forward to examining the findings of your research study.

Kind regards

ALBERT CHANEE
ACTING DIVISIONAL MANAGER: OFSTED

The contents of this letter has been read and understood by the researcher.	
Signature of Researcher:	
Date:	

Annexure 2

Media Statement — 2 August 2004

SCHOOL ADMISSION AGE TO GRADE 1

As a result of numerous media enquiries regarding the age of admission of Grade 1 learners, the Department of Education wishes to reiterate that the age of admission to Grade 1 is five (5) years old if the child turns six (6) on or before 30 June in their Grade 1 year.

However, if a parent has reason to believe that their child is not school ready at age five turning six they can choose to send their child to Grade 1 at age six turning seven.

The background to the age of admission is as follows:

The Education Laws Amendment Bill of 2002 set the age of admission to Grade 1 as the year in which the child turns 7. However, a Constitutional Court challenge to the Bill in 2003 resulted in the school going age to Grade 1 to be changed to age 5 if they turn 6 on or before 30 June in their Grade 1 year. This was implemented with effect from the 2004 school year and is still in place.

There is a national hotline the public can phone if they have any queries regarding registering their child for Grade 1. The number is 0800 202 933 (office hours only).

Issued by Peter Maher

Media Liaison Officer

Department of Education

Tel: (012) 312 5046

Annexure 3

INFORMED CONSENT

TITLE OF THE RESEARCH PROJECT:

SCHOOL ADMISSIONS AND PRINCIPALS' CRAFT-COMPETENCY AND CRAFT-LITERACY IN CASE LAW COMPLIANCE

Date:

Dear Participant

You are invited to participate in a research project aimed at determining the extent to which public school principals are craft-competent and craft-literate in handling case law in relation to admissions policy.

Your participation in this research project is voluntary and confidential. You will not be asked to reveal any information that will allow your identity to be established, unless you are willing to be contacted for individual follow up interviews. Should you declare yourself willing to participate in an individual interview, confidentiality will be guaranteed and you may decide to withdraw at any stage should you wish not to continue with an interview.

Accompanying this letter, is a document explaining; (1) How to complete the questionnaire

(2) Willingly participate in a structured interview

(3) Complete a log book (Self reflection)

The results from this study will be used to provide a body of knowledge that highlights the challenges and experiences principals face when adopting administrative actions that are lawful, reasonable and procedurally fair.

If you are willing to participate in this study, please sign this letter as a declaration of your consent, i.e. that you participate in this project willingly and that you understand that you may withdraw from the research project at any time. Participation in this phase of the project does not obligate you to participate in follow up individual interviews, however, should you decide to participate in follow-up interviews your participation is still voluntary and you may withdraw at any time. Under no circumstances will the identity of interview participants be made known to *[any parties/organisations that may be involved in the research process and/or which has some form of power over the participants]*.

Participant's signature..... : Date:.....

Researcher's signature..... : Date.....

Yours Sincerely

Jabulani Nyoni (25351339)

Annexure 4

Reflectico-Appraisalment Inventory.

You are requested to record all administrative decisions you make (individually or collectively) on a day to day basis. These recordings should be done over a period of one month. **(Brief explanation: An administrative decision is any decision taken (or failure to do so) using the power/authority vested in you by the law.**

Day 1

(a) In point form record the administrative decision(s) you took during the day:

(b) Say whether they were general or legal decisions.

(c) Give a brief explanation to answer (b)



(d) Whom did you consult before arriving at your administrative action (s) (decisions)

(e) What sources did you consult?

Annexure 5

Interview Schedule

Interview schedule on how school principals translate and implement section 5 (4) of SASA, Act, 84 of 1996 as amended by The Education Laws Amendment Act, 2002 on admission of learners in a public school.

Opening.

A. Establish rapport.

I thought it would be best to interview you on the translation and implementation of section 5 (4) of SASA, Act, 84 of 1996 as amended by The Education Laws Amendment Act, 2002. The information provided in this interview will be treated in the strictest confidence. Neither your identity nor that of your institution or your colleagues will be disclosed. You are not forced to participate in the study. You may stop the interview if you so wish.

B. Purpose

I believe as one of the senior principals/deputy/SMT directly involved in the translation and implementation of a number of legal instruments such as policies, circulars, laws among others, you will be able to offer invaluable information on how you go about it.

C. Motivation.

It is important to state from the onset that there is an increase in case law development in South Africa and court decisions are a recognized source of law. The study therefore is merely meant to find out how principals work with case law in schools.

D. The interview should not go beyond 30 minutes.

1. Transition.

May I start by asking you biographical questions?

- Gender
- Age
- Educational qualifications
- Work experience

Annexure 6

QUESTIONNAIRE

In light of the impact of the Bill of Rights on educational institutions, learners, parents and the transformation laws and policies pushed through by government, it is not surprising anymore to witness the rapid growth of litigation in the field of education. Court decisions are a recognized source of law and have a real function in the development of the rules of education law. It is against this background that the research on how public school principals work with case law in relation to the admission policy is done.

1. No names or anything that might identify you will be used for this research.
2. You are not compelled to participate in the study. You may withdraw anytime should you wish.
3. Data will be stored securely during the duration of the research.

For office use only

- | | |
|------------------------|----|
| 1. Respondent's number | V1 |
| 2. Card number | V2 |
| 3. Repeat number | V3 |
| 4. Participant number | V4 |

A. SECTION A

A.1 Respondent's profile and biographical data

Question 4

Respondent is a

Male	1
Female	2

Question 5

(a) What is your age in years?

18-24	25-	31-35	36-40	41-45	46-50	51-55	56-60	61+
1	2	3	4	5	6	7	8	9

(b) What is your present level of professional study?

Certificate	Diploma	Degree	Post graduate
1	2	3	4

Question 6

What is your experience in the education profession in completed years?

0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	41+
1	2	3	4	5	6	7	8	9

Question 7

What is your experience as a principal/deputy/SMT?

0-5	6-10	11-15	16-20
1	2	3	4

Section B

Section 5(4) of SASA, Act, 84 of 1996 as amended by The Education Laws Amendment Act, 2002 made specific changes to admissions to a public school. The purpose of the following questions is to help find out how you worked with these changes.

Question 8

How familiar are you with the existence of a case *Minister of Education v Harris* 2001 (4) SA 1297 (CC) law that amended section 5 (4) of SASA Act. 1996 (Admissions to public schools)?

I don't know much about it	1
I have seen it and have read parts of it	2
I have seen it and read all of it	3
I have a copy of it but I don't use it in my course of work	4
I work with it on a regular basis in the course of my work	5

Question 9

How familiar are you with the existence of The Education Laws Amendment Act, 2002 which amended section 5 (4) of SASA, Act, 84 of 1996.

I don't know much about it	1
I have seen it and have read parts of it	2
I have seen it and read all of it	3
I have a copy of it but I don't use it in my course of work	4
I work with it on a regular basis in the course of my work	5

Question 10

To what extent were you equipped to deal with the implications of this case?

Not at all equipped	1
Equipped	2
Fully equipped	3

Question 11

Have you ever felt the need for staff development (further training) in the handling of law at school?

Yes	1
No	2

Provide reasons:

.....

.....

.....

Question 12

Do you think you are adequately equipped as a principal/deputy/SMT to be able to cope with the task of working with the law?

Yes	1
No	2

Please give brief reasons for your answer to **Question 10**

.....

.....

.....

Question 13

Are you aware of the existence of any staff development courses offered by the Department of Education on how to deal with law at school level?

Yes	1
No	2

Question 14

(a) How long did it take you to be informed of the changes to the admissions policy?

Never informed	After months	After weeks	After days	Immediately
1	2	3	4	5

(b) How were you informed?

Never	Media	Meeting	Phone	Circular
1	2	3	4	5

Question 15

Do you know what administrative action means in legal terms?

Yes	1
No	2

If “**yes**” give a brief explanation

.....

.....

Question 16

How often do you refer legal issues (matters) to the Department of Education for clarification in order to make correct decisions?

Always	Regularly	Sometimes	Not sure	Never
1	2	3	4	5

Question 17

Did you attend any training or information session aimed at giving you skills or knowledge about handling case law?

Yes No

If you answered “**yes**” Please indicate when:

Who organized the session?

.....

What form did the session take?

.....

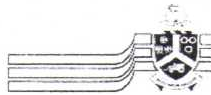
Who presented the contents (knowledge and/or skills)?

.....



Annexure 7 Clearance certificate

ANNEXURE D



UNIVERSITY OF PRETORIA
FACULTY OF EDUCATION
RESEARCH ETHICS COMMITTEE

CLEARANCE CERTIFICATE

DEGREE AND PROJECT

INVESTIGATOR(S)

DEPARTMENT

DATE CONSIDERED

DECISION OF THE COMMITTEE

CLEARANCE NUMBER : EM06/09/01

M.Ed (Educational Management, Law and Policy)
School admissions and principals' craft-competency and craft-literacy in case law compliance

Jabulani Nyoni - 25351339

Education Management, Law and Policy

1 December 2006

APPROVED

This ethical clearance is valid for years from the date of consideration and may be renewed upon application

CHAIRPERSON OF ETHICS COMMITTEE

Dr S Human-Vogel

DATE

1 December 2006

CC

Prof Johan Beckmann
Mrs Jeannie Beukes

This ethical clearance certificate is issued subject to the following conditions:

1. A signed personal declaration of responsibility
2. If the research question changes significantly so as to alter the nature of the study, a new application for ethical clearance must be submitted
3. It remains the students' responsibility to ensure that all the necessary forms for informed consent are kept for future queries.

Please quote the clearance number in all enquiries.

Research location

Annexure 8

