JURIDICAL ASPECTS OF TEACHER MISCONDUCT: A MANAGEMENT PERSPECTIVE


Thesis submitted in partial fulfilment of the requirements for the degree Philosophiae Doctor in Education Management at the University of Pretoria.

Promotor: Prof. Dr. J.L. Beckmann

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DEDICATION

This thesis is dedicated to the memory of my late beloved parents - *ntate Molahlehi* and *mme Mmataba* who supported me against all odds at the time when they were still living in this world.
ABSTRACT

Many researchers who conducted studies in management and leadership concentrated mostly on the private sector. However, researchers have aggressively started conducting management and leadership research in the public education sector using the management and leadership concepts and ideas that are used in the private sector. It must however, be mentioned from the outset that some of the concepts used in the private sector are not applicable to education. For example, the situational approaches are relevant to both the private and the public education sectors. When the situation in schools have to be diagnosed, there are unique situational variables that have an adverse impact on the management and leadership skills and techniques of principals.

In this study, qualitative research was conducted, and the researcher used a constructivist approach which calls for hermeneutic, phenomenological and dialectic methods, and it was found that the situational variables that seem to be affecting the management and leadership of principals in a given situation are the following: unionism, the legacy of the political struggle, lax and laissez-faire conduct, misconduct and insubordination, and the pressure exerted on the school management teams by the supervisors. These variables render principals ineffective and inefficient. The Grade 12 pass rate, the appearance of school surroundings and the behaviour of educators at many schools controlled by the erstwhile Department of Education and Training (DET) support this view, and they also suggest that some educators attached to these schools are not yet ready to embark on meaningful teaching.

The lax and laissez-faire situation which is prevalent in many schools controlled by the now defunct DET led to the lax morals which result in educators committing misconduct and insubordination. Among others, the following are mentioned as examples: 'unfair dismissal' and harassment of principals by the unionised educators and inciting of learners by some of the unionised educators against the principals. All these and other unfair labour practices suggest that principals to whom these are meted out are traumatised; and a traumatised person is not self-confident and self-reliant, hence it is necessary to professionally counsel the affected principals.
In the light of the above, many principals of the traditional black schools are demoralised, dispirited and demotivated. As a result, they are unable to carry out their management and leadership activities effectively and efficiently. This belief is supported by the outcome of the interviews and discussions that the researcher had with the educator unions/organisations, the principals and the school management developers of the four project schools.

In this study, an attempt is made to examine the outlined problems in accordance with the law in general, and the relevant sections in the Employment of Educators Act (EEA), (Act 76 of 1998) and Labour Relations Act (LRA), (Act 66 of 1995) in particular. At the same time problems are identified for future or further research.
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