

**W Bray**

**JURIDICAL  
ASPECTS OF  
EDUCATION,  
SCHOOL AND  
CLASSROOM  
MANAGEMENT**

MANUALIA DIDACTICA 1  
UNISA 1988



UNISA

JURIDICAL  
EDUCATION  
CLASSROOM



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Hierdie boek is ook beskikbaar onder die titel JURIDIESE ASPEKTE VAN  
ONDERWYS-, SKOOL- EN KLASBESTUUR.

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# JURIDICAL ASPECTS OF EDUCATION, SCHOOL AND CLASSROOM MANAGEMENT

W. Bray

UNIVERSITY OF SOUTH AFRICA  
PRETORIA

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Second impression 1994

ISBN 0 86981 565 2 (Hard cover)

ISBN 0 86981 890 2 (Soft cover)

Typeset by  
Insta-Set  
Pretoria

Printed and published by the  
University of South Africa  
Muckleneuk, Pretoria

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## PREFACE

This study covers a wide area of South African law but focuses mainly on the legal position of the "education manager" in the public-education system. The concept "education manager" has in fact a wide scope and every teacher involved in public education could therefore be seen as an education manager in his/her own right. In this sense the study may serve to clarify the legal position of all teachers in the public-education sphere.

The juridical aspect of education management will be of interest to the teacher as well as the jurist. The object of this study is to accommodate both these groups and therefore a particular style has been followed to introduce this legal field of education to the reader who has no legal background. Because the field is so wide and, as yet, largely uncharted, the proposed format and systematic arrangement need to be explained.

**SECTION A** contains a general introduction to the law. The place of the law of education in the South African legal system and its legal sources are discussed next. Because this work focuses primarily on the legal aspects of administration and management in the public-education hierarchy, the emphasis will naturally be on the administrative-law aspects of the law of education. The legal relationship between the teacher – especially the principal as education manager – and the education administration is explained. The teacher derives a particular legal status from this relationship.

Within the public-education structure, the principal is essentially the education manager in the school substructure. The legal aspects of the different administrative acts performed by the principal in the daily school situation are discussed in detail. These administrative acts must comply with certain legal requirements and



are controlled internally by various forms of internal control. Apart from the powerful structure of internal control, the civil courts may, as a last resort, exercise external control over these administrative acts.

In the final part of this section, the term "state liability" and its implications for the teacher/principal acting in his capacity as a teacher in public education, is discussed.

In **SECTION B** a separate field of the law, namely, interpretation of statutes is dealt with. As statutory law (legislation) constitutes the most important source of the law of education, it is necessary that teachers should have some knowledge of the rules of statutory interpretation. The different theoretical approaches, rules of and aids to interpretation, are thus covered in **Part One** of this section. In **Part Two** a step-by-step approach to the practical process of interpretation is offered; internal education legislation is used as an example.

Drafting of legislation, also a specialist field, is discussed very informally in **SECTION C**. Although this section is aimed primarily at the drafting of formal legislation, certain guidelines are proposed which may help the principal and other education managers in their task of drafting internal education measures, such as school policy and school rules.

A **BIBLIOGRAPHY** is supplied at the end of each section. As certain parts of the study could not be discussed in detail, it would be useful to consult the bibliography for additional literature. It may also be consulted if more extensive background material is required on a particular topic.

**FOOTNOTES** serve a particular purpose in this study. Because of the complex nature of this field of education and the fact that it is still largely uncharted and therefore strange to the reader, footnotes have had to be used to explain the legal content of the text, where possible, by means of practical examples. In this way the theoretical or abstract legal position is elucidated by means of reference to the relevant practical education situation. Therefore, in most cases, footnotes must be regarded as the practical application of the contents of the text, and for this reason must be read with the text throughout this study.

In order to assist the reader with references to general legal concepts, an **INDEX** is supplied at the end of the book.

Heartfelt appreciation goes to my colleagues, family and friends for their unstinting guidance and support.