

EXPLORING PRINCIPALS' EXPERIENCES OF LEGAL LEARNING IN RELATION TO STUDENT DISCIPLINE

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ABSTRACT

In Aotearoa New Zealand, a number of statutory powers are vested in school principals. Of particular significance is the authority to remove a student from school on disciplinary grounds (Education and Training Act 2020 s 80). The exercise of this statutory power impacts on students' rights, particularly their right to education (Education and Training Act 2020 s 33). Ensuring that principals have a sound understanding of the relevant law is therefore critical. Yet there has been limited research exploring how principals develop their knowledge of the law in this area. Responding to this gap in the literature, this article presents findings from a mixed methods study that provide valuable insights into how secondary school principals in Aotearoa New Zealand develop their understanding of education law, specifically laws relating to student discipline. It also details principals' perceptions of the training and support that is currently available, along with their preferences for the content, delivery and structure of professional development in laws relating to student discipline. This research is timely given the planned development in Aotearoa New Zealand of a national Leadership Centre and principal eligibility criteria.

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I INTRODUCTION

For over 50 years, researchers have highlighted the need for principals to receive legal training.¹ These recommendations are based on the consistent finding from studies conducted in various countries that principals' have limited knowledge of education law.² These studies have also identified wide variation in the extent to which principals receive training in education law and the impact of this training on their legal literacy.

There is a paucity of research exploring the position in Aotearoa New Zealand in relation to both principals' legal literacy and training. Each of the two studies³ conducted to date involved a small number of principals from one region in Aotearoa New Zealand. Additionally, like much of the overseas research, these studies focused on education law generally rather than specifically on laws relating to student discipline.

Among the areas of law that principals require an understanding of, student discipline is one of the most important. Every year in Aotearoa New Zealand, principals exercise their statutory power under section 80 of the *Education and Training Act 2020* (NZ) ('ETA20') to stand-down or suspend a child from school in excess of 20,000 times.⁴ In addition to these formal removals, there is evidence of increasing numbers of young people being informally removed from school on disciplinary grounds.⁵ Without an understanding of laws relating to student discipline, principals may unintentionally compromise students' rights, particularly their right to education.⁶

Responding to the need for research in this area, this article presents findings from recent doctoral research that explored how principals develop their understanding of laws relating to student discipline. Part I provides the context for this study by reviewing literature relating to principals' legal literacy and legal education for principals. Part II

¹ Troy Davies, 'The Worrying State of Legal Literacy among Teachers and Administrators' (2009) 2(1) *Canadian Journal for New Scholars in Education* 1; Earl Ogletree, 'Educators' Knowledge of School Law and the Relevance of School Law Study' (1985) 7(1) *Glendale Law Review* 64; Douglas Stewart, 'Legalisation of Education: Implications for Principals' Professional Knowledge' (1998) 36(2) *Journal of Educational Administration* 129; Perry Zirkel, 'Paralyzing Fear? Avoiding distorted assessments of the effect of law on education' (2006) 35(4) *Journal of Law & Education* 461.

² Howard Eberwein, 'Raising Legal Literacy in Public Schools, a Call for Principal Leadership: A National Study of Secondary School Principals' Knowledge of Public School Law' (PhD Thesis, University of Massachusetts, 2008); Nora Findlay, 'In-School Administrators' Knowledge of Education Law' (2007) 17(2) *Education Law Journal* 177; Ayeshah Alazmi, 'Principals' Knowledge of School Law in Kuwait: Implications for Professional Development' (2021) 35(1) *International Journal of Educational Management* 283; Allison Trimble, 'Education Law, Schools, and School Principals: A Mixed Methods Study of the Impact of Law on Tasmanian School Principals' (PhD Thesis, University of Tasmania, 2017).

³ David Wardle, 'School Related Law: Do Principals Know What They Need to Know?' (Master's Thesis, Massey University, 2006); Priscilla Naidoo, 'Legal Literacy: Auckland Secondary School Principals' Understanding of Education Law' (Master's Thesis, Auckland University of Technology, 2018).

⁴ Ministry of Education, 'Stand-downs, Suspensions, Exclusions and Expulsions from School' (Web Page, 25 September 2022) <<https://www.educationcounts.govt.nz/indicators/main/student-engagement-participation/Stand-downs-suspensions-exclusions-expulsions>>. This figure is based on data from 2015 to 2019. The rates of stand-downs and suspensions decreased in 2020 and 2021 due to fewer onsite school days because of Covid-19 lockdowns.

⁵ Jennifer Walsh, 'Barriers to Education in New Zealand: The Rise of Informal Removals of Students in New Zealand' (Research Report, YouthLaw Aotearoa, 2016) <<http://youthlaw.co.nz/resources>>.

⁶ ETA20 s 33.

details the research methodology, before discussing the results and the implications of these for principals' professional development.

A Principals' Legal Literacy

The relevance of the law to principals' daily practice has been highlighted in studies conducted in a range of countries. These include the United States,⁷ Ireland,⁸ Malaysia,⁹ Canada¹⁰, Nigeria,¹¹ Singapore,¹² Kuwait,¹³ Australia¹⁴ and Aotearoa New Zealand.¹⁵ There is some debate within the literature over the level of legal knowledge required by principals. Nonetheless, it is widely agreed that as a minimum, principals require the legal knowledge and skills to identify and apply relevant laws in their practice.¹⁶ This includes knowing when to seek advice and guidance in response to legal issues.¹⁷ There is also widespread agreement, based on the results of numerous legal literacy studies, that principals do not possess such knowledge.¹⁸ While the assessment measures used in these studies have varied, the findings with respect to the legal knowledge variable have been remarkably consistent; principals have limited knowledge and understanding of education law. Among the areas of law in which gaps in principals' understanding have been identified is student discipline. In particular, concerns have been raised both overseas¹⁹ and in Aotearoa New Zealand²⁰ over principals' understanding of the principles of natural justice. This is significant given that these principles are fundamental to ensuring that a fair process is followed when dealing with discipline incidents.

B Legal Education for Principals

In exploring the possible reasons for principals' limited legal literacy, researchers have inquired into the training received by principals. Findings indicate that the extent to which principals engage in training relating to education law and the nature of such

⁷ Eberwein (n 2).

⁸ N Purdy and C McGuckin, 'Cyberbullying, Schools and the Law: A Comparative Study in Northern Ireland and the Republic of Ireland' (2015) 57(4) *Educational Research (Windsor)* 420.

⁹ Fatt Hee Tie, 'A Study on the Legal Literacy of Urban Public School Administrators' (2014) 46(2) *Education and Urban Society* 192.

¹⁰ Findlay (n 2).

¹¹ Ogharen Beauty Biokoro, 'Principals' Knowledge of Education Law in Secondary School Administration in Delta and Bayelsa States, Nigeria' (2019) 89 *Journal of Law, Policy and Globalization* 27.

¹² Mui Kim Teh, 'The Case for Legal Literacy for Educators' (2014) 15(4) *Education Law Journal* 252.

¹³ Alazmi (n 2).

¹⁴ Trimble (n 2).

¹⁵ Sally Varnham, 'Education law in Aotearoa New Zealand' in Charles Russo (ed), *Handbook of Comparative Education Law: British Commonwealth nations* (Rowman & Littlefield Publishers, 2017).

¹⁶ Mark Butlin and Karen Trimmer, 'The Need for an Understanding of Education Law Principles by School Principals' in Karen Trimmer, Roselyn Dixon and Yvonne S Findlay (eds), *The Palgrave Handbook of Education Law for Schools* (Springer, 2018).

¹⁷ Trimble (n 2).

¹⁸ Findlay (n 2); Alazmi (n 2); Eberwein (n 2); Paul McCann, 'Principals' Understandings of Aspects of the Law Impacting on the Administration of Catholic Schools: Some Implications for Leadership' (PhD Thesis, Australian Catholic University, 2006).

¹⁹ McCann (n 18).

²⁰ Wardle (n 3).

training varies depending on a country's requirements for principal eligibility or certification. For example, in the United States where most states require legal competency as part of the standards and licensing of principals, Eberwein²¹ found that 87% of respondents had completed a tertiary level course with a legal component. By way of contrast, in Australia where there is no requirement for principals to hold any specific qualifications other than teacher registration, studies have shown the percentage of principals who have undertaken tertiary training with a legal component to be much lower. For example, less than 20% of principals in Stewart's²² and Trimble's²³ respective studies had undertaken such training.

Findings from the two legal literacy studies conducted in Aotearoa New Zealand²⁴ indicate that the position may be similar here. Like Australia, there is no requirement in Aotearoa New Zealand for principals to hold any specific qualifications other than teacher registration. None of the 11 secondary school principals in Naidoo's study nor the six primary school principals in Wardle's study had completed a tertiary level course with a legal component. Moreover, both Wardle and Naidoo found that principals' pre-service training did not adequately prepare them for the legal issues they faced in their practice. Except for one principal, all participants in Wardle's study rated their pre-service education as of "no use"²⁵ in preparing them for the legal issues that they encountered. Echoing concerns raised by Stewart²⁶ in relation to novitiate principals in Queensland schools, Naidoo and Wardle questioned the adequacy and effectiveness of the leadership programmes offered to principals.

Across the various countries in which legal literacy studies have been conducted, participation in short, in-service education law courses has typically been much higher than participation in tertiary courses.²⁷ Ranging in duration from half a day to two days, principals' perceptions of the usefulness of these in-service courses varies significantly. For example, Schneider²⁸ found in her study of principals' legal learning in the United States that while a number of principals had attended some form of in-service course, they did not view this as a source of legal learning. Such courses were perceived as at most a way to keep up-to-date with changes in the law.

In their respective studies with New Zealand principals, both Wardle²⁹ and Naidoo³⁰ found that the vast majority of participants had attended workshops and/or seminars with an education law component. These professional development opportunities were typically organised by the New Zealand Educational Institute ('NZEI'), New Zealand Schools Trustees Association ('NZSTA') or Secondary Principals Association of New

²¹ Eberwein (n 2).

²² Douglas Stewart, 'School Principals and the Law: A Study of the Legal Knowledge Needed and Held by Principals in Government Schools in Queensland' (PhD Thesis, Queensland University of Technology, 1996).

²³ Trimble (n 2).

²⁴ Naidoo (n 3); Wardle (n 3).

²⁵ Wardle (n 3) 99.

²⁶ Stewart (n 22).

²⁷ Findlay (n 2); Trimble (n 2); McCann (n 18).

²⁸ Tracey Schneider, 'A Social Constructivist Grounded Theory of School Principal Legal Learning' (2021) 16(3) *Journal of Research on Leadership Education* 226.

²⁹ Wardle (n 3).

³⁰ Naidoo (n 3).

Zealand ('SPANZ'). While principals in Naidoo's study highlighted the value of SPANZ seminars in keeping them abreast of developments in the law, perspectives on the usefulness of the workshops attended by participants in Wardle's study varied. Wardle described these professional development sessions as basic introductory presentations that were organised on an 'ad hoc basis' and were 'few and far between.'³¹

Of particular concern in a number of legal literacy studies was the finding that principals' participation in training did not translate into a higher level of legal knowledge. In their studies involving Australian principals, both McCann³² and Stewart³³ found that principals who attended education law in-service courses did not achieve a higher legal knowledge score than those who had not attended such courses. By way of contrast, Findlay³⁴ found in her survey of Canadian principals' legal literacy that principals who had completed a university course in education law achieved a higher score on the legal knowledge questions than those who had not. Results from Eberwein's³⁵ study involving principals in the United States provide insight into the possible reasons for this variation in the impact of training on principals' legal literacy. He found higher legal knowledge scores among principals who rated their training as very effective and who had completed both a pre-service and in-service course as opposed to those who had just completed an in-service course. These findings highlight the need for careful consideration to be given to the quality and duration of legal training that is provided to principals.

C Principals' Sources of Legal Support

When faced with legal issues in their practice, findings from the legal literacy studies have been fairly consistent with respect to the sources that principals refer to. Lawyers, specialist advisers³⁶ and secondary sources such as guides or manuals developed by the relevant education authority³⁷ were among the most frequently consulted sources. By way of contrast, materials from professional development sessions or tertiary courses were seldom, if ever, referred to.³⁸ In the Aotearoa New Zealand studies,³⁹ principals viewed NZSTA, NZEI and SPANZ as useful sources of legal information. However, principals in Wardle's study spoke of receiving conflicting advice at times from some of these sources, leaving them to make a difficult judgment as to which source was more authoritative and/or accurate. Also of note in Wardle's study, was his finding that the principals' lack of legal literacy hindered their ability to foresee possible legal issues and seek advice accordingly. They relied instead on the emotion generated by an issue to determine its seriousness and whether advice should be sought.

³¹ Wardle (n 3) 106.

³² McCann (n 18).

³³ Stewart (n 22).

³⁴ Findlay (n 2).

³⁵ Eberwein (n 2).

³⁶ Eberwein (n 3); Trimble (n 3).

³⁷ McCann (n 18); Stewart (n 22).

³⁸ Schneider (n 28); Trimble (n 2).

³⁹ Naidoo (n 2); Wardle (n 2).

Interestingly, in her research with Tasmanian principals, Trimble⁴⁰ identified differences in the sources principals consulted based on the nature of the legal issue faced. Principals were more likely to seek advice from a lawyer when dealing with non-routine legal issues as opposed to routine issues. Trimble defined the latter as the legal problems and decisions faced by principals in their day-to-day practice. When dealing with routine issues, Trimble reported ‘considerable reliance’⁴¹ by principals on both their own understanding of the law and that of their fellow principals. Similar observations regarding the value and precedence that principals place on advice from their principal colleagues, along with their own experience and intuition have been noted in other legal literacy studies,⁴² including the two New Zealand studies⁴³. In Wardle’s study for example, the degree of reliance on information and guidance from other principals ranged from ‘a lot’ through to ‘heavily’,⁴⁴ with other principals often being the ‘first port of call’⁴⁵ when dealing with a legal issue. Moreover, all principals in Wardle’s study said that they had learnt about various aspects of education related law through situations that they had encountered in their practice.

D Need for Empirical Research

As highlighted in this review of legal literacy studies, principals seldom receive training in education law prior to taking on their role. While it is fairly common for principals to complete in-service training in education law, the nature of this training along with principals’ perceptions of its value, varies. Of particular note, is principals’ reliance on their own experience and that of their colleagues when faced with a legal issue in their practice. Findings from Wardle⁴⁶ and Naidoo’s⁴⁷ studies suggest that the position may be similar in Aotearoa New Zealand. However, each of these studies involved a small number of principals from one region in Aotearoa New Zealand and they focused on education law generally. Little is therefore known about how secondary school principals in Aotearoa New Zealand develop their understanding of laws relating to student discipline and their perceptions of the available training and support. The proposed development of a national Leadership Centre to, inter alia, provide professional development to principals,⁴⁸ makes research in this area valuable. In particular, it is important to understand at a national level whether principals believe professional development in this area of law is needed and if so, their preferences for the content, delivery and structure of such training.

⁴⁰ Trimble (n 2).

⁴¹ Ibid iv.

⁴² Findlay (n 2); McCann (n 18); Matthew Militello, David Schimmel and Howard Eberwein, ‘If They Knew, They Would Change: How Legal Knowledge Impacts Principals’ Practice’ (2009) 93(1) *NASSP Bulletin* 27.

⁴³ Naidoo (n 2); Wardle (n 2).

⁴⁴ Wardle (n 2) 104.

⁴⁵ Ibid 108.

⁴⁶ Wardle (n 2).

⁴⁷ Naidoo (n 2).

⁴⁸ Teaching Council of Aotearoa New Zealand, ‘Rauhuia: Leadership Space’ (Web Page, 2022) <<https://teachingcouncil.nz/professional-practice/rauhuia-leadership-space-home/rauhuia-leadership-space>>.

The objectives therefore of the study detailed in Part II of this paper were to:

1. explore secondary school principals' awareness, understanding and application of laws relating to student discipline in Aotearoa New Zealand.
2. understand how secondary school principals in Aotearoa New Zealand develop their understanding of laws relating to student discipline.

The primary focus of this article is on the results from the study that relate to the second research objective.

II THE PRESENT STUDY

A Research Methodology

This study was conducted within a Pragmatic paradigm⁴⁹ and used a sequential, two-phase mixed methods research design. In accordance with this research paradigm, the research methods that are detailed below were chosen based on their effectiveness in achieving the study's objectives.⁵⁰ In this study, a survey was considered useful in providing a nationwide snapshot of principals' understanding and awareness of laws relating to student discipline. The semi-structured interviews that were conducted in phase two provided an opportunity to build on the survey findings by exploring in greater depth how principals with varying legal knowledge scores interpret and apply laws relating to student discipline, along with how principals develop their understanding of the law in this area.

The study received ethical approval from the University of Canterbury Educational Research Human Ethics Committee.⁵¹

1 Phase One: Survey

During phase one, the Student Discipline Law Policy and Practice Survey was developed. The survey was primarily composed of multiple-choice questions and it was organised into six sections. Sections one and two asked questions relating to the principal's professional background and training. Specifically, these questions inquired into the training and support in laws relating to student discipline received by principals, along with their perceptions of the helpfulness of further training in this area. Sections three and four asked principals to self-assess their knowledge of law relating to student discipline laws before answering 21 questions on the law in this area. Sections five and six enquired into principals' experience with legal challenges as a result of student

⁴⁹ For a comprehensive discussion of pragmatism as a research paradigm, see David Morgan, *Integrating Qualitative and Quantitative Methods: A Pragmatic Approach* (Sage Publications Ltd, 2014).

⁵⁰ Peggy Shannon-Baker 'Making Paradigms Meaningful in Mixed Methods Research' (2016) 10(4) *Journal of Mixed Methods Research* 319; David Morgan 'Paradigms Lost and Pragmatism Regained: Methodological Implications of Combining Qualitative and Quantitative Methods' (2007) 1(1) *Journal of Mixed Methods Research* 48.

⁵¹ Reference number 2019/48 ERHEC.

discipline decisions they had made, along with their views on the legal framework relating to student discipline.

The Student Discipline Law Policy and Practice Survey was administered online using Qualtrics software. A link to the survey was sent out via email to all secondary school principals in Aotearoa New Zealand. Seventy-six principals from across the 10 education regions completed the survey. This sample was broadly nationally representative in terms of school and principal demographics.

Descriptive statistics were used to summarise the quantitative survey data. This included calculating frequency and percentage statistics for discrete variables (e.g., gender) and mean, standard deviation and range for continuous variables (e.g., years in job). A scoring guide was used to code and score the 21 legal knowledge questions, with a total performance score calculated for each principal. Frequency and percentage statistics were calculated for individual legal knowledge questions and the mean, range and standard deviation were calculated for the total legal knowledge score. Inferential statistics were also used to provide an indication of the variables (e.g., training) that may influence principals' awareness and understanding of laws relating to student discipline.

For a comprehensive discussion of the phase one method, including survey development, scoring of the legal knowledge questions, data analysis and results for individual legal knowledge questions, see Leete (2022).⁵²

2 Phase Two: Semi-structured Interviews

In accordance with the sequential design that was used for this study, the participants for phase two were recruited from those who participated in phase one. A purposive sampling strategy was used to select 16 principals with a range of legal knowledge scores to participate in a semi-structured interview. Where several principals had the same legal knowledge score, the decision on who to select was based on the following principal and school variables: gender, years as principal, training, legal action, school decile and education region. The intention was to select a diverse sample to enable a range of perspectives on the interpretation and application of student discipline laws to be explored. Pragmatism embraces the plurality of human experiences and practices, with researchers encouraged to inquire into the research issue from multiple perspectives.⁵³ So too, the value of exploring diverse perspectives is emphasised in the mixed methods literature.⁵⁴

⁵² Nicola Leete, 'New Zealand Secondary School Principals' Understanding and Application of Laws Relating to Student Discipline: A Socio-Legal Mixed Methods Study' (PhD Thesis, University of Canterbury, 2022).

⁵³ Matthew Brown, 'Pluralism and Perspectivism in the American Pragmatist Tradition' in Ana-Maria Crețu and Michela Massimi (eds), *Knowledge from a Human Point of View* (Springer, 2020); John Creswell and Vicki Plano Clark, *Designing and Conducting Mixed Methods Research* (Sage Publications, 3rd ed, 2018).

⁵⁴ Alan Bryman 'Integrating Quantitative and Qualitative Research: How is it done?' (2006) 6(1) *Qualitative Research* 97; Elizabeth Creamer, 'Mixed Methods Approaches to Developing Grounded Theory', *International Institute for Qualitative Methodology* (Webinar, 10 May 2018).

An interview schedule was developed. Consistent with this study's sequential design, the survey data were used to identify lines of inquiry for the semi-structured interviews. For example, one of the findings from the survey was that there was no statistically significant difference in legal knowledge scores between principals who had and had not received training (M difference = 2.5, $t = -1.99$, $df = 11.6$, $p = .07$). Interview questions therefore inquired into the nature of the training principals engaged in and their perceptions of its effectiveness. Initially interviews were conducted face-to-face but following the arrival of Covid-19 in Aotearoa New Zealand and the subsequent lockdowns, interviews were conducted remotely. Zoom was used for this purpose, with one exception where a telephone interview was conducted. All interviews were recorded with the informed consent of the interviewee and transcribed verbatim. Interviewees were also provided with a copy of the transcript and invited to make any changes.

The interview data were uploaded into NVivo 12 where reflexive thematic analysis (thematic analysis) was used to analyse the data.⁵⁵ Thematic analysis has been identified as well suited to research that focuses on exploring people's understandings and the factors that shape and influence their practices.⁵⁶ This made it ideal for exploring how principals develop their understanding of, and apply, laws relating to student discipline. The analysis was primarily conducted inductively and within a critical realist framework.⁵⁷ Through engaging in the six phases of thematic analysis,⁵⁸ the following three themes were developed: Learning Through Experience, Hitting the Threshold and The Balancing Act. The latter two themes, which relate to the first research objective, are discussed in Leete (2022).⁵⁹ The focus of this article is on the first theme, Learning Through Experience, as this captured the way in which principals develop their understanding of laws relating to student discipline.

3 Phase Three: Integration

A defining feature of a mixed methods study is the integration of the quantitative and qualitative data.⁶⁰ In this study, integration occurred at two points in the research process. First, integration occurred at the design level; as discussed below, the results from phase one were used to select participants and lines of inquiry for phase two. Second, integration occurred at the interpretation level when the data from each phase were brought together, compared and contrasted. This offered insights into how principals develop their understanding of laws relating to student discipline beyond those provided through either the qualitative or quantitative data alone. The results from the integrated analysis are discussed below. In accordance with the study's qualitatively-driven design, the results and discussion are combined. This approach

⁵⁵ Virginia Braun and Victoria Clarke, *Thematic Analysis: A Practical Guide to Understanding and Doing* (Sage Publications, 2021).

⁵⁶ Ibid.

⁵⁷ Margaret Archer et al., *Critical Realism: Essential Readings* (Routledge, 1998).

⁵⁸ Braun and Clarke (n 55).

⁵⁹ Leete (n 52).

⁶⁰ Patricia Bazeley, *Integrating Analyses in Mixed Methods Research* (Sage Publications, 2018).

recognises that from a qualitative perspective, the results and the researcher's interpretation of them are inextricably connected.⁶¹

B Results and Discussion

1 Learning Through Experience

This theme captures the way in which principals developed their understanding of laws relating to student discipline and specifically their understanding of the formal discipline process. As discussed above, there is no requirement in Aotearoa New Zealand for principals to undertake pre-service or in-service training in relation to any aspect of the law. This was reflected in both the survey and interview data. Only six (5.6%) principals who responded to the survey had completed postgraduate study that included a legal component prior to becoming a principal. During the interviews most principals spoke of participating in an Aspiring Principals' Programme and/or a Beginning Principals' Programme. However, only one recalled there being a legal component in the programme, and he could not remember whether this covered laws relating to student discipline.

In the absence of pre-service training, the vast majority of principals who were interviewed referred to learning 'on the job'.⁶² For many, this was akin to an informal apprenticeship as they took on responsibility for student discipline in their role as a deputy or assistant principal under the tutelage of an experienced principal. This is reflected in the following quote from P109, 'I think the model in New Zealand schools is on the job training so working as a deputy principal or assistant principal you become familiar with that.' While the lack of pre-service legal training for principals has been highlighted in previous studies,⁶³ the apprenticeship model that was a dominant aspect of this data set does not appear to have featured. This likely reflects the significant involvement of deputy and/or assistant principals in the student discipline process relative to other areas of education law in New Zealand secondary schools. Principals who responded to the survey indicated that the task of investigating allegations of misconduct at their school was conducted by the deputy or assistant principal (89.3%, $n = 67$) or a Dean (50.7%, $n = 38$). Only 36.0% ($n = 27$) said that they carried out the investigation themselves.

A number of principals referred to this cycle of apprenticeship learning continuing now as they taught the law to their deputy or assistant principal and/or other members of their school's senior leadership team. Here, participant P168 describes this process:

I think, well I mean you can judge because you know more than I do, whether I've got the right handle on it or not but I've inadvertently trained five other people because they all sit in on the discipline meetings and we discuss them before and after. So, the training is happening onsite with my senior leadership team.

⁶¹ Braun and Clarke (n 55).

⁶² P103. Unique identifiers beginning with 'P' were given to survey respondents and interviewees to ensure anonymity when reporting results.

⁶³ Alison Trimble and Neil Cranston, 'Education Law, Schools and School Principals: What does the research tell us?' in Karen Trimmer, Roselyn Dixon, & Yvonne Findlay (eds), *The Palgrave Handbook of Education Law for Schools* (Springer, 2018).

Referring to the interview vignettes, P168 later commented, 'I talked these through with our senior team because I wanted to hear what they thought because it's good training for them.' Several other principals similarly referred to discussing the vignettes with their senior leadership team prior to our interview as a teaching and learning exercise. As P168's comments highlight, this apprenticeship model is contingent upon the principal who is providing guidance having an accurate understanding of the law. However, the legal knowledge results from the survey indicated considerable variability in principals' awareness and understanding of the relevant law. The mean legal knowledge score from the survey was 59.5%, with a range of 32.1% to 82.1%. Of particular note, and consistent with numerous overseas legal literacy studies,⁶⁴ there was no correlation between the number of years a principal had been in their role and their legal knowledge score ($r = -.01$, $N = 76$, $p = .97$).

(a) Unprepared and Unsupported

The apprenticeship model of learning through experience is also dependent on principals receiving such guidance prior to beginning their role. This point was recognised by P104, a principal who had been in the role for just over one year. Reflecting on the lack of preparation that principals receive before entering the role she commented,

It's funny, they take classroom teachers, and if you're a reasonably good classroom teacher you might become a head of department, or you might become a deputy principal, and you might become a principal and I find it quite interesting how little training we're given before. I mean I feel quite lucky in that as a DP in a couple of different schools, I had principals who were interested in growing my capacity and helping me to learn how to do things. But without the benefit of that, I think it's no small wonder that the attrition rate of principals is pretty high and that the wellbeing is pretty low, because we're thrown into a job that we're basically not prepared for.

P104 went on to explain that since becoming a principal most of what she had learnt about laws relating to student discipline had come through asking people – primarily staff at the Ministry and NZSTA – for support:

It would be really nice to not have to be proactive and not have to guess okay what is it that I should be asking but actually for a first-time principal to say these are the things that you need to know something about and we're going to teach you about it as opposed to well you ask because of course we don't know. It's not our area.

Her views were echoed by a considerable number of interviewees, many of whom spoke of the importance of having a board member who was a lawyer. The following quote from P162 is illustrative of the views of many principals on this point:

When I first came here, the chairman of the board was a lawyer and then we had a lawyer who was on it for 9 or 10 years and guided me through everything really....I think again that's an inequity in the system. You know that's why I quite liked what Bali Haque was promising with Tomorrow's Schools. I think at the moment, I feel sorry for a Tomorrow's schools where there's

⁶⁴ McCann (n 18); Suruchi Singh, 'Knowledge of Special Education Law among Administrators in a Southern California Special Education Local Plan Area' (PhD Thesis, Brandman University, California, 2015); Wendy Overturf, 'Knowledge of Special Education Law among Individuals Recently Licensed as Principals in Wisconsin' (PhD Thesis, Edgewood College, 2007); Marie Boyd, 'Public and Private School Principals' Knowledge of Special Education Law' (PhD Thesis, University of Nebraska, 2017).

no lawyer attached to them because it's just too hard. I would find it really difficult as a young principal.

As P162 and P104's comments highlight, without a structured, formal programme of training and support it was hit-and-miss as to whether a beginning principal was fortunate enough to have the guidance of an experienced principal or a board member with a legal background. The sentiments of these interviewees were consistent with those of many survey respondents. The final open-ended survey question asked respondents whether there were any other issues related to student discipline that they wanted to raise. Principals with varying demographic characteristics described feeling unprepared and unsupported to deal with the legal aspects of the student discipline process. The following quote from P109, a principal of two years, was reflective of the views of many respondents, 'I have not been trained in legal aspects of this process and support is very limited.'⁶⁵

(b) Professional Development Divorced from Practice

After taking on the role of principal, just over half of the interviewees reported attending a seminar or conference presentation on education law that included some content relating to student discipline. These professional development sessions were typically offered through regional principals' associations, SPANZ or private providers and were primarily delivered by lawyers. A small number of principals attended professional development organised by the Ministry or NZSTA. All of these in-service professional development opportunities were voluntary and ranged in duration from one hour through to two days.

Principals' opinions on the value of these training opportunities varied. Most agreed that the content was useful, particularly for principals in the first few years of their role. However, cost and time were identified by some as barriers to attendance, especially among principals leading schools situated outside of the major cities. The main criticism though was that the lecture style teaching mode, common to many professional development sessions, was divorced from the reality of daily practice and therefore 'a little bit artificial.'⁶⁶ P131's comments were reflective of many principals' views:

Oh those legal seminars, I didn't like them much. I went to one or two over the years and my Board at [name of current school] wanted me to go to more of them but I never found them, it was a whole day of legal stuff, some of which was quite useful and some of which wasn't that useful and I found I could get the same sort of stuff from my colleagues without having to sit the whole day in a sort of legal forum.

Irrespective of whether they had attended professional development or their views on its usefulness, the majority of principals said the main way in which they developed their understanding of laws relating to student discipline continued to be through 'experience on the job.'⁶⁷ There was a sense among principals that even if you had been taught about the law at a seminar or conference presentation, it was not until you experienced the issue in your practice that you actually developed an understanding of

⁶⁵ P109.

⁶⁶ P109.

⁶⁷ P103.

the relevant law. This idea is captured in the following quote from P159, a principal of eight years, ‘I think they’re useful but you sort of go to them to learn but the trouble is that until you’ve experienced it you know... You just find out by doing.’ The value that principals placed on learning through experience over learning through in-service professional development is consistent with findings from several legal literacy studies.⁶⁸

Interviewees’ views in this study on the ineffectiveness of seminars and presentations as a means of learning the law also appear accurate based on the survey results. Although the majority of respondents (85.5%, $n = 65$) reported receiving some form of training in laws relating to student discipline, there was no statistically significant difference in legal knowledge scores between principals who had and had not received training (M difference = 2.5, $t = -1.99$, $df = 11.6$, $p = .07$). While the small number of principals in the “no training” group ($n = 11$) relative to the “training received” group ($n = 55$) may have influenced this result, it is consistent with findings from several previous legal literacy studies.⁶⁹ It has been suggested that the nature and duration of such training, which typically involves a half or full day workshop or seminar covering a range of areas of law, may account for these results.⁷⁰ Among the principals in this study who had received training, most had attended a workshop (38.9%, $n = 42$) and/or seminar (47.2%, $n = 51$).

(c) Risky Business

The interview data highlighted numerous risks associated with “Learning through Experience.” Principals frequently explained how they had come to realise over time that their discipline practices were unlawful. By way of example, P173, a principal who had not received pre-service or in-service training in laws relating to student discipline, reflected on how his practice at board disciplinary meetings had changed as he developed an understanding of procedural fairness:

So you know in days gone by in my first principalship I don’t think I, I’m not sure that I understood the process that well but I know that I would have been in there when the final decision was made. I know that when I look back on it. But now I’m absolutely conscious of leaving the room.

Later in the interview when asked about the unlawful practice of sending a student home on disciplinary grounds without going through the statutory process, P173 commented, ‘I think there’s something around sending children home early without process and I don’t think I knew that as a first time principal though. So that’s a bit of an age thing probably, a bit of an experience and a conversational thing.’

Like P173, P167 explained how his practice had changed as his understanding of the law developed. In the early years of his principalship he recalled not knowing that he needed to inquire into, and take into account, a student’s personal circumstances when exercising his discretion. After becoming aware of successful legal action taken against a nearby school for failing to consider a student’s background, P167 explained, ‘our

⁶⁸ McCann (n 18); Stewart (n 22); Wardle (n 3).

⁶⁹ Boyd (n 64); McCann (n 18); Stewart (n 22).

⁷⁰ Stewart (n 22).

report to the board changed and it was taken from that case that every report that went to the board had a background check on the student and took into account mitigating circumstances as well.’ Similar comments regarding a lack of awareness of the law were made by P177 when discussing a law seminar that he was unable to attend because of other work commitments. ‘I think my DP went to it and she came back with heaps of things like you can’t do an internal stand down which I never knew, just take them out of class but anyway you can’t. So there were a lot of those sorts of things.’

As these quotes illustrate, leaving it to chance for principals to learn through experience on the job and optional in-service training has the potential to significantly impact on students’ rights. Overseas studies, which have primarily gathered quantitative data by way of surveys to assess principals’ legal literacy, have warned of the potential risks of principals not receiving training in education law.⁷¹ Through the use of semi-structured interviews, this study provides actual examples from principals of the ways in which students’ rights may be unintentionally comprised by principals’ lack of understanding of the relevant law. Interestingly, the examples given by principals related to the areas identified in the survey as those where there were gaps in principals’ understanding of the law such as the principles of natural justice and the exercise of discretion. These are also areas that have been the subject of successful legal challenges to principals’ discipline decisions in Aotearoa New Zealand.⁷²

Learning through experience about laws relating to student discipline leaves principals vulnerable to legal action. P138 was one of a number of principals who referred to learning about the law in this area through making mistakes. Reflecting on his learning, he commented ‘most of what I learnt, I learnt because I made the mistakes early on.’ Understandably, learning in this way was a source of stress for many principals. The following quote from P100 highlights the concerns over compliance with the law and the consequences of failure to comply, which were expressed by interviewees:

You gotta have a good working knowledge and if you don’t, you’ve got to find the help pretty darn quickly cos I’m not a fan of winging it [...] It’s not so much the ending up in court and ending up on the front page of the newspaper, it’s the stress and the worry that it causes you.

Indeed several principals spoke of gaining their knowledge in relation to a particular aspect of student discipline laws through actual or threatened legal action that they faced. Such comments are interesting when considered in the context of the survey results regarding legal action. Fifty percent ($n = 38$) of principals reported facing actual or threatened legal action as a consequence of a student discipline decision that they had made. These principals had a significantly higher mean legal knowledge score than those who had not experienced legal action (M difference = 1.4, $t = -2.1$, $df = 74$, $p = .04$, $d = 0.5$). This suggests that experiencing legal action may increase a principal’s understanding of laws relating to student discipline.

⁷¹ Alazmi (n 2); Eberwein (n 2).

⁷² See, for example, *M & R v S and Board of Trustees of Palmerston North Boys’ High School* [2003] NZAR 705; *D v M and Board of Trustees of Auckland Grammar School* [2003] NZAR 726.

(d) Needing and Wanting Professional Development

Despite their mixed reviews of the professional development that they had attended, all interviewees considered training in student discipline laws to be necessary for principals. Many echoed P167's sentiments that 'there's such a variety in decision-making because of the lack of education for future principals, for principals in that position making the decision and that needs to change.' This support for professional development in laws relating to student discipline was also consistent with the survey results. When asked how helpful they would find further training in laws relating to student discipline, the majority of respondents (60.5%, $n = 46$) indicated that further training would be very helpful or extremely helpful. No principal considered that further training would not be helpful. In light of the survey results discussed above regarding the impact of training on principals' legal knowledge, careful consideration needs to be given to ensuring training is effective in strengthening principals' understanding and application of the relevant law. Here again, the interview data provided helpful insights into principals' training preferences.

Interviewees overwhelmingly favoured face-to-face training over online delivery options such as webinars. Online options were considered uninviting and not conducive to the collaborative discussions with legal experts and fellow principals that the interviewees said they would value. Consistent with their descriptions of learning best through practice-based experiences, a case-based approach was considered most helpful. To this end, many principals referred to the interview vignettes as examples of the types of real-life scenarios that it would be useful to discuss. Such an approach is consistent with recent research conducted in the United States, which has demonstrated the effectiveness of professional development for principals that focuses on applying the law to issues experienced in practice as opposed to simply imparting legal knowledge in a lecture style presentation.⁷³

In line with recommendations in overseas studies,⁷⁴ several principals spoke of the importance of ongoing professional development throughout their career rather than a one-off course. To this extent, they suggested a distinction should be drawn between the training for beginning and experienced principals, with training for the latter group focusing on recent developments in the law. Additionally, it was recommended that training be provided to deputy and assistant principals given their significant involvement in the student discipline process. Like P100, several principals also emphasised the importance of training being funded by the Ministry and made available throughout the regions not just in the major city centres:

⁷³ Schneider (n 28); Janet Decker, Patrick Ober and David Schimmel 'The Attitudinal and Behavioral Impact of School Law Courses' (2019) 14(2) *Journal of Research on Leadership Education* 160; Kelsie Reed et al. 'Promoting Statewide Discipline Reform through Professional Development with Administrators' (2020) 64(2) *Preventing School Failure* 172. A real-life case-study approach to legal training in procedural fairness was also considered beneficial by principal participants in a recent Australian study: Tryon Francis, 'Procedural Fairness Requirements in Decision-Making: Legal Issues and Challenges for Government Secondary School Principals in New South Wales' (PhD Thesis, The University of Notre Dame Australia, 2021).

⁷⁴ Daniel DeCino et al. 'Educational Leaders' Perceptions of Legal Preparedness' (2020) 30(4) *Journal of School Leadership* 375; Eberwein (n 2); Reed et al. (n 73); Trimble and Cranston (n 63).

I would love for, you know, an outcome of this research to be that the Ministry of Education does make it compulsory so principals have to go. It's part of your licence to be a principal so you have to go, you have to attend it. But it has to be quality and run not just out of your Ops Grant you know because for me I'm flying to Wellington and I'm probably staying a night in a hotel maybe, you know maybe not but come round to the regions and you know at least I can potentially afford it. Like I say, a small rural school, no way they can afford it.

Notwithstanding their opposition to training being delivered online, several principals considered that in addition to a regular cycle of face-to-face training opportunities, a “one-stop” online portal would be useful with updates on relevant case law and legislation. Interestingly, this idea bears similarities to *LeadSpace*, a website developed by the fifth Labour government to serve as a ‘one-stop-shop’⁷⁵ for principals seeking guidance on all aspects of their role, including legal issues. While *LeadSpace* no longer exists, the Ministry of Education has an Educational Leaders website which includes a section on education law. However, much of the content on this section of the site that relates to student discipline was last updated in 2011 or 2012 and there are frequent references to contacting NZSTA for further advice and/or links to other webpages, meaning it is not the “one-stop” portal recommended by principals.

C Implications and Recommendations

The findings from this study highlight the urgent need for funded, nationwide professional development for principals in laws relating to student discipline. In line with principals' preferences discussed above, a case-based approach to professional development is recommended. Such an approach would provide principals with opportunities to learn about and then apply the law to the kinds of scenarios they may encounter in their practice. Additionally, working through scenarios collaboratively with other principals would facilitate exploration of different perspectives, responses and associated consequences. This is particularly valuable in the context of student discipline laws, given that the exercise of principals' statutory discretion to remove a student from school is an inherently value-laden enterprise.⁷⁶

Consideration should also be given to recent overseas studies, which provide valuable insights into the features of effective professional development programmes in this area of law. These include providing participants with training and resources to share with their staff as a teaching and learning exercise.⁷⁷ As discussed above, many principals in this study described learning about the law in this area in their role as a deputy or assistant principal under the guidance of an experienced principal and several principals referred to using the interview vignettes with their staff to support their understanding of the law in this area. Providing principals with support and guidance to ensure accurate

⁷⁵ New Zealand Government, ‘School Principals’ Website Launched’ (Press release, 11 April 2002) <<https://www.beehive.govt.nz/release/school-principals-web-site-launched>>.

⁷⁶ For a discussion of the role of values in principals' exercise of discretion in student discipline decision-making see Nora Findlay ‘Discretion in Student Discipline: Insight into Elementary Principals’ Decision Making’ (2015) 51(3) *Educational Administration Quarterly* 472; Leete (n 52).

⁷⁷ Janet Decker and Barbara Pazez ‘Case-based Instruction to Teach Educators about the Legal Parameters Surrounding the Discipline of Students with Disabilities’ (2017) 39(3) *Action in Teacher Education* 255.

information is passed onto staff would overcome the risks identified with the apprenticeship model.

Also noteworthy was the interdisciplinary professional development approach developed by the Transforming School Discipline Collaborative in Illinois, United States.⁷⁸ This involved professionals in the areas of special education, psychology, law and restorative practices, collaborating on the design and delivery of a professional development programme for principals. A further feature of this programme was the tailoring of content to address the specific discipline issues experienced by principals within the different districts in which the programme was offered. An approach such as this would align with current educational delivery models in Aotearoa New Zealand, specifically Communities of Learning | Kāhui Ako⁷⁹ and the Learning Support Delivery Model,⁸⁰ both of which involve drawing on collective expertise to meet local needs and strengthen student outcomes.

Irrespective of the approach to professional development that is taken, its impact needs to be evaluated. While it may seem common sense that participating in legal training would increase principals' legal knowledge, like previous studies,⁸¹ the results from this research indicate this may not be the case. Moreover, consideration needs to be given to what is evaluated, when and how. There are a range of objectives of professional development beyond legal knowledge that warrant consideration including principals' self-assessed levels of confidence and stress when dealing with the legal aspects of their role. A recent study conducted by Decker et al.⁸² in the United States is noteworthy in this regard as this is one of the only studies to date to evaluate the impact of an education law course on participants' daily practice and attitudes one year after course completion.

In addition to face-to-face professional development and in line with principals' recommendations, it is suggested that an online portal with content relating to student discipline is created. As noted above, the information that is currently available online is located on various different websites and some of the content is outdated. Updating and collating this information into a single portal would make this information more accessible for principals. Consistent with the interdisciplinary approach to professional development endorsed above, the portal should include summaries of legislation, international human rights obligations, court decisions, Ombudsman investigations and, once established, decisions of the dispute resolution panels,⁸³ along with summaries of relevant educational research. A key focus when collating and presenting this content

⁷⁸ See Reed et al. (n 73).

⁷⁹ Ministry of Education, 'About Communities of Learning/Kāhui Ako' (Web Page, 2021) <<https://www.education.govt.nz/communities-of-learning/about>>

⁸⁰ Ministry of Education (2018) <<https://assets.education.govt.nz/public/Documents/Ministry/Initiatives/learning-support-update/6-elements-A3-Feb-2018.pdf>>.

⁸¹ McCann (n 18); Stewart (n 22).

⁸² Decker, Ober and Schimmel (n 73).

⁸³ *ETA20* includes provisions enabling the establishment of a dispute resolution scheme (ss 216–36). Under the scheme dispute resolution panels are intended to facilitate timely resolution of serious disputes, which specifically includes stand down and suspension decisions: s 217(d). However, over two years after the enactment of *ETA20* the dispute resolution panels are still to be established.

should be on bridging the gap between law and practice and research and practice in relation to student discipline.

Finally, the importance of legal knowledge to the principal's role needs to be reflected in the recently drafted Principal Eligibility Criteria ('PEC').⁸⁴ Developed in response to concerns raised by the Tomorrow's Schools Independent Taskforce⁸⁵ over variability in the quality and professional expertise of school leaders, the PEC set out the criteria that must be met by applicants for appointment to the position of principal. They are also intended to support better understanding of the background and experience needed for school leadership among aspiring principals.⁸⁶ Of the four Pou that comprise the PEC, Pou Mahi (Leader of Operations) is of particular relevance to principals' legal literacy. This Pou includes, 'Reading and following legislation, policies and procedures necessary to run an organisation.' Interestingly, this criterion is classified as one in which principals should, 'have some experience' as opposed to 'have in-depth knowledge' which is used in relation to other criteria within the PEC. As the results of this study highlight, failing to ensure principals have an adequate understanding of relevant law prior to taking on their role leaves both principals and students vulnerable. Specifically including legal literacy in the PEC as an area in which principals should be able to demonstrate proficiency, is an important step towards ensuring all principals possess the legal knowledge and skills required for their role.

D Limitations

Several limitations should be borne in mind when interpreting the results of this study. First, as the survey sample was self-selected, it is possible that the respondents had a particular interest in student discipline laws. However, the size of the sample and the fact that it was broadly nationally representative in terms of both principal and school demographics, provides some assurance that the patterns identified are unlikely to be reflective of sampling issues. Second, the purposive sampling strategy that was used to select the interviewees was valuable in understanding how principals with a range of legal knowledge scores developed their understanding of the law and applied laws relating to student discipline. However, the principals who were interviewed were predominantly males and New Zealand European. Future research with a more ethnically and gender diverse sample may offer additional insight into principals' experiences of learning and applying the law in this area.

⁸⁴ ETA20 s 617 provides that the Minister must issue eligibility criteria relating to appointment of principals. The criteria were in draft form at the time of writing this article. Ministry of Education, *Principal Eligibility Criteria* (Consultation draft August 2022) <<https://consultation.education.govt.nz/teacher-supply/principal-eligibility-criteria-feedback>>.

⁸⁵ Tomorrow's Schools Independent Taskforce, *Our Schooling Futures: Stronger together* (Final Report, September 2019) 18.

⁸⁶ ETA20 s 617(1)(b).

III CONCLUSION

The results of this mixed methods study provide a valuable insight into the way that secondary school principals in Aotearoa New Zealand develop their understanding of laws relating to student discipline. In the absence of nationwide, structured professional development, principals primarily developed their understandings of the law in this area “on the job.” As highlighted through the examples provided by principals, there are numerous risks associated with this “Learning Through Experience” approach. Not only was this mode of learning a source of considerable stress for many principals, it could result in students’ rights being unknowingly and unintentionally compromised during the discipline process. Drawing on principals’ preferences, this study also identified the potential for “Learning Through Experience” to inform the design of effective professional development for principals in this area of the law. The development of Principal Eligibility Criteria, along with a national Leadership Centre, provides an excellent opportunity to ensure principals are supported to develop the knowledge and skills required for this important aspect of their role.