

Risk Management in Addressing the Duty of Care in Mechanical Technology Workshops

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Abstract

Common law is an essential component in the South African education context, and the duty of care principle directly applies to education. To allow the teacher to create a secure environment for order, regularity, and protection – that supports affective teaching and learning – it is essential that teachers take sufficient notice of the common law rules that apply to education. The teacher needs to have sufficient knowledge of educational law so that they can ensure the safety of learners under their care. This legal awareness enables educators to act as reasonable professionals, capable of fulfilling their duty of care responsibly and effectively. The research utilized quantitative and qualitative methods to assess the technology teachers' understanding of common law determinants that underpin their duty of care in the Mechanical workshop setting. The results revealed a significant lack of knowledge regarding these legal principles among the teachers. This raises the question of whether teachers can adequately fulfill their duty of care without properly understanding the relevant legal requirements. To effectively nurture a safe workshop environment conducive to teaching and learning, teachers must enhance their knowledge of education law, as their responsibilities are guided by common law and determinants.

Keywords: secure school environment, accidents and injuries, duty of care, in loco parentis, common law

Introduction and problem statement

The Mechanical Technology workshop teacher will be exposed to various aspects of the law in the teaching practice; therefore, it is necessary that the teacher must have comprehensive background knowledge of education legislation to protect him against any legal claims but at the same time ensure that his duty of care towards learners in the workshops is fulfilled. Article 8A(2) of the South African Schools Act 84 of 1996 mandates that public schools must take necessary actions to safeguard the well-being of students during school activities, ensuring that, wherever possible, students are supervised by a teacher at all times. Workshops and the safety of learners within them are, with the more litigation-conscious society, continuously placed under the magnifying glass due to the increase in liability claims against teachers and other role players, based on damage caused during school activities (Smit, 2022). Effective

implementation of workshop safety measures and strict adherence to discipline are essential. When learners follow the established workshop rules, they contribute to a secure environment where they can work safely and confidently.

Secure school infrastructure and school environment

Zengele (2013) describes a safe school infrastructure as essential for the development of a high-quality teaching and learning environment. Such an environment enables students to engage in school activities confidently, free from the fear of injury, which can contribute to improved academic outcomes. Oosthuizen (2015) emphasizes that schools must ensure safety for both learners and teachers, allowing educators to practice their profession with confidence and providing students the opportunity to unlock their full potential. Machelm (2015) argues that students who feel unsafe or threatened cannot thrive academically, and an unsafe school environment may hinder their academic progress and cognitive growth. Machelm (2015) further asserts that a safe school environment allows students to reach their full potential while providing teachers with the security necessary to fulfill their legal responsibilities to their students.

Accidents and injuries

Oosthuizen (2015) explains that the safety climate in a school environment must be promoted to limit the possibility of accidents and injuries. Slabbert (2011) holds the opinion that the possibility of an increased risk for accidents and injuries in school workshops exists if “there is not a climate of safety”. Oosthuizen (2015) thinks that there are teachers who do not carry out their duty of care properly and that injuries are the result of this. Slabbert (2011) points out that the impact of these injuries may negatively impact learners’ ability to learn. Slabbert (2011) explains further that as a result of injuries, learners can limit their standard of living and enjoyment of life, which can lead to their self-confidence waning and, with it, also their academic progress.

Common law determinants for the duty of care of the teacher

There are principles in common law that are applied to determine what the teacher’s responsibility is to the learner’s health and safety in the workshop. The common law determinants of a teacher’s duty of care in safety management within the workshop will be assessed, with a specific focus on the principles and their application to tort law. Because of the presence of hazardous machinery, school workshops can be classified as a high risk that can threaten the safety of teachers and learners. The workshop can be classified as such because the literature study shows that claims for tort liability due to numerous injuries with hand and machine tools are more common in school workshops than in ordinary classrooms (Smit, 2022). Among the common law principles that are directly applicable to education and aimed at ensuring the safety of learners in the Mechanical Technology workshops, the *in loco parentis* principle and the duty of care of the Mechanical Technology teacher in the workshop will be briefly discussed.

In loco parentis

Neethling et al. (2015) point out that under common law, the teacher has the *in loco parentis* obligation to guarantee the learners’ physical health. According to Singh and

Surujlal (2010), the principle of *in loco parentis* applies to all persons who deal with learners, including principals, teachers, administrators, coaches, referees, and even volunteers who undertake certain responsibilities. Regarding Singh and Surujlal (2010), the *in loco parentis* principle places a specific obligation on all stakeholders in education. The obligation is to achieve educational and academic goals, establish order and authority, and create a safe learning environment for optimal teaching and learning. The justice grounds for the teacher's actions, according to Oosthuizen (2015), are founded in the devolved authority of the *in loco parentis* principle as it relates to the teacher, and so also thanks to the bond of trust between the teacher and learner, which is an important link between the learner and security. Beckmann and Russo (2006) point out that the teacher not only has delegated authority (obligations) from the parent, but also original authority (obligations) based on the educator's position and professional status.

The duty of care of the teacher

Oosthuizen (2015) states that parents lack the required knowledge and didactic abilities to teach their children themselves. Machelm (2015) explains that the school curriculum is specialized and complicated, and that subject expertise is needed to teach the learners the subjects. Based on this, parents turn to qualified and specialized teachers who can provide education and teaching. Oosthuizen and Rossouw (2008) state that parents entrust their children to the school to receive teaching and learning in a safe school environment. Learners have a constitutional right to receive education and instruction from qualified and specialized teachers in a safe and protected school environment. Oosthuizen (2015) explains that a duty of care is entrusted to teachers and that one of the most fundamental roles of a teacher regarding his duty of care is the creation of a space of safety for learners under his care. The workshops with their dangerous practices and machinery, and tools are a high-risk workshop environment, and according to Botha et al. (2015), the teacher has a legal duty to create a safe working environment, to ensure the learner's safety in the workshop.

The definition of the standard of care has often been discussed and determined in court cases. A teacher has specific duties under their duty of care, and several factors play a role in determining whether the teacher has succeeded in applying their duty of care legally correctly. Rossouw and Keet (2011) refer to the case *Geyer v Downs* (1977), where the court tested certain factors to determine whether he complied with the requirement of his duty of care.

The factors were the learner's characteristics, namely age, intellectual and physical abilities, skill level, and the unpredictable and impulsive actions of young persons, and the degree of injury that could happen in similar situations. Botha et al. (2015) explain that teachers must show a higher degree of care depending on the age of the learners under their care, as minor learners do not have the experience and are not mentally or emotionally mature enough to act independently and independently. Learners act intuitively and often act, but do not realize the consequences of their actions. Learners are also naturally playful and, in many cases, disobedient. These types of actions can cause safety measures not to be closely followed, with the effect that learners can put their safety and that of fellow learners in jeopardy.

Research aim, method, and design

Research aim

One of the objectives of the study was to determine the Mechanical Technology teachers' knowledge of the common law determinants that define their duty of care in the workshops.

Research method

A mixed-methods approach was employed for data collection. Structured electronic questionnaires were used for quantitative data, while semi-structured interviews were conducted for qualitative data.

Population and regional sampling

The quantitative investigation's target group was teachers from South African technical schools who teach Mechanical Technology (N=220). For the qualitative investigation, a purposive sample of Mechanical Technology teachers was selected based on criteria such as experience, skill, and expertise. Individual interviews were conducted with eight teachers.

Ethical aspects

The research received approval from the university's ethics committee, which oversaw the study. All ethical guidelines set by the committee were followed throughout the research process.

Data analysis

The quantitative data was analyzed using suitable statistical methods, with processing assistance from the university's statistical consulting service. The interviews with eight participants were recorded, transcribed, and then analyzed. The researcher identified various groups, categories, subthemes, and themes during the analysis.

Quantitative findings

The following quantitative findings present technology workshop teachers' knowledge of common law principles to ensure they effectively fulfill their duty of care.

Duty of care supervision

To determine the respondents' level of knowledge of common law principles regarding teachers' duty of careful supervision, the respondents had to answer a self-assessment question about it. The responses to the question can be summarized as follows.

28.13% of the respondents indicate that their knowledge is not good enough about their duty of careful supervision. 27.50% of the respondents indicate that they have a small amount of knowledge about their duty of careful supervision. 40.63% consider that

their knowledge on the subject is sufficient, while only 3.75% consider their knowledge on the subject to be excellent. From the findings, a definite gap can be observed in the teachers', of what their duty of care entails.

Common law principles

To verify the accuracy of certain self-evaluation questions by the respondents, certain knowledge questions were included. To a question of whether a teacher is not held personally liable due to a safety incident in a workshop, only 5.63% of the respondents indicated the answer as correct. 41.25% of the respondents were unsure about the correct answer. The low percentage of correct answers means that the teachers in the study's knowledge of common law principles is not very good. In contrast, 42% of the respondents to the questions about the principles of common law indicated that their knowledge about them was sufficient. This means that the teachers have a misperception about their knowledge of the common law principles, in the case of personal liability, due to a safety incident in the workshop.

To test the respondents' knowledge of common law principles, the following question was asked: If a safety incident takes place in a school workshop, can delictual liability arise if certain elements can be proven? Only 26.25% of the respondents had the correct answer to the question, and 43.75% of the respondents were unsure about the correct answer.

The low percentage of correct and high percentage of uncertain answers means in this study that the teachers' knowledge of common law principles is not good. With the knowledge question about delictual liability, only 26.25% of the respondents could answer the question correctly, while 41.51% of respondents to the question thought that they considered their knowledge of tortious liability to be sufficient.

Damages

In a subsequent question to test the respondents' own knowledge of common law principles, it was asked whether the school or governing body is responsible for compensation if a teacher causes an incident.

Regarding the question, only 6.25% of the respondents had the answer correct. 41.88% of the respondents were unsure about the correct answer. In the question, only a small percentage (6.25%) of the respondents knew what the correct answer was, while 41.88% of them were unsure about what the correct knowledge question was. When asked about their knowledge of liability, 41.51% of the respondents considered their knowledge of liability to be sufficient. The analysis also shows that the teachers have a misperception about their knowledge of accountability.

The teachers do not have sufficient education law knowledge, especially concerning legal liability. Considering this, the question can be asked whether the teachers can carry out their duty of care properly with the lack of knowledge about certain legal aspects. The teachers must create a safe space in the workshop setting where effective teaching and learning can take place. To carry out their duty of care properly, and thereby create a safe environmental climate, the teachers must sharpen their education legal knowledge, because their obligations are determined by common law and jurisprudential determinants.

Qualitative findings

The following qualitative findings present technology workshop teachers' legal knowledge, experiences, and perspectives on common law principles to ensure they effectively fulfill their duty of care.

Duty of care

The participants know that, according to their legal duty, they are responsible for guaranteeing the safety of the learners. One participant said that he had a greater responsibility towards his learners in his class because they work with dangerous machinery. A participant is unsure about what his duty of care entails and asks if there is someone who can inform their teachers more about what their responsibilities entail. In the quantitative study, only 40.63% of the respondents thought that their knowledge about their duty of care was sufficient. From the participant's responses and the quantitative responses, it can be deduced that there is a definite need for teachers to know more specifically what their legal obligations are to fulfill their duty of care. A Fitting and Turning teacher mentions that he does everything in his power to prevent accidents. Despite the teachers' experience and duty of care, accidents and incidents still occur that lead to injuries (damage). However, the Fitting and Machine Work teacher explains that an accident is "something you didn't plan", and that is why it is called an accident. Another participant points out that a higher degree of care and supervision is needed with the specialized machines. The teacher explains that even though grade 12 learners, who have three years of experience and are therefore quite experienced, are working, he cannot allow them to work without supervision. He believes that if he does, he is failing in his duty of care and his actions are negligent. Few of the participants are familiar with the *in loco parentis* principle. Only one participant mentioned that teachers have a legal duty due to their *in loco parentis* position. Two of the participants point out that the teachers act in place of the parents, and therefore, they must look after and take care of the learners. Under common law, teachers have a legal duty to fulfill their duty of care responsibly (Joubert & Prinsloo, 2008).

Tort liability

With the data analysis, the researcher noticed that the participants were aware of certain terms and that they also had moderate knowledge about them, but they were ignorant of the terminology regarding tort liability, as well as its application in the workshop environment. Few of the participants were aware that the test for negligence consists of two elements, namely reasonable foreseeability and reasonable preventability (Botha et al., 2015).

Conclusion

From the findings of the study, it can be deduced that the teachers who participated in the study feel uncertain about various situations in which they find themselves in the workshops, mainly because their educational legal knowledge of all the legal aspects is not up to standard. It is believed that the number of court cases is rising against teachers regarding their liability towards learners who sustain injuries under their supervision and care. The teachers believe that they do not get sufficient support from their principals

and governing bodies, and specifically from provincial Departments of Education. As an employer, the Departments are obliged to lay down guidelines to which the teachers' duty of care must comply. The study found that there is a feeling among the teachers that, because the appropriate policies are not always available, they are largely at the mercy of the law. The teachers have a legal duty to provide careful supervision, but due to their ignorance of the law, there is still a degree of restraint, and teaching and learning activities are limited.

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