

WHAT IS A TEACHER'S JOB?: AN EXAMINATION OF THE SOCIAL AND LEGAL CAUSES OF ROLE EXPANSION AND ITS CONSEQUENCES

JUDITH H. COHEN*

I. INTRODUCTION

As the needs of society have changed, so too has the role of the school. Schools now provide services to children that traditionally were not within their responsibility. From day care centers to school breakfast programs, from school-based health clinics to after-school "latchkey kid" care, school services have taken on expanded dimensions to provide for children when either the family or the community has failed to do so. Reforms and expansions have transformed our schools into "a vast social service agency."¹ One commentator has stated that we demand not just education from our schools, we also expect schools to "cure society's ills."²

As the functions of the school systems have undergone transformation, so too has the role of the teacher in today's schools. While the primary role of the teacher has been that of educating children, societal needs and other external mandates for change have significantly altered the work of teachers. In the past, the family and other professionals assumed primary responsibility for the well-being of children. Today, however, much of this work falls within the purview of teachers in a new "catch-all" role.

Recently, a group of teachers enrolled in a graduate course was asked this question: "Are there roles that you have undertaken as a teacher that you did not expect when you began your career?" There were many nods of acknowledgement and when

* Associate Professor of Education, Adelphi University; Attorney at Law, New York City; Law Guardian, Family Court of the State of New York, Nassau County. B.A., 1966, Queens College, City University of New York; M.S., 1968, Syracuse University; Ph.D., 1975, J.D., 1988, Hofstra University.

1. M. KIRST, *WHO CONTROLS OUR SCHOOLS?* 49 (1984).
2. D. RAVITCH, *THE TROUBLED CRUSADE, AMERICAN EDUCATION, 1945-1980*, at xii (1983).

asked to describe some of these unexpected roles, these were among the responses:

As a special education teacher (elementary) I have found myself counseling parents almost as much as I teach their children. I also feel that I work on children's self esteem and confidence as much (or more than) I teach academics.

I meet a girl every [morning] at 7:30 to supervise the locker room door and locker room while she showers. Her parents own a store and have her out of the house to help work by 6:00 A.M.

Last year I found myself playing the role of a psychologist. I had a child with severe emotional and behavioral problems. He took up alot of time which was precious time taken away from my main role as teacher.

Playground babysitter, mother role, cleaner, fixer, counselor.³

When questioned further about their personal reactions to assuming these "nontraditional" teaching roles, the teachers' replies revealed lack of preparation to take on some of the new roles, confusion about role priorities, and feelings of often being overburdened. Most significantly, the replies demonstrated the teachers' genuine concern about being expected to help children in ways that go beyond their traditional instructional role:

[Counseling parents] is a big responsibility and one that I do not feel I am qualified for. I do it, however, despite possible ramifications, because I feel that the parents really need this and it makes a difference.

I was never trained to have to aid children in personal hygiene. Luckily, my principal got permission from the superintendent and parents to allow this [showering] to happen. This child could not continue to come to school in the condition she had been in and someone had to do something.

It's a good feeling to see the smiles. It saddens me to see them cry. [Being a mother-counselor] is very tiring and draining, but also an awakening and enlightening experience.

I don't want *all* the responsibility *all* the time [It] causes problems, because it interferes with teaching.⁴

This Article examines the social and legal causes of the ex-

3. These are written comments from students enrolled in one of my graduate education courses at Adelphi University, Fall 1990.

4. See *supra* note 3.

pansion of the role of teachers in our schools and in our society, and describes several of the consequences. The analysis indicates that if teachers are going to be called upon to take on responsibilities that previously had been within the realm of other professionals, their roles need clarification. The Article also provides suggestions for modifying the preparation of teachers for today's schools and for creating the support systems that teachers need to be both effective and secure in their new roles.

II. THE EXPANSION OF THE TEACHER'S ROLE

A. *Societal Pressures*

For many children today, the teacher may be the only stable and continuing adult presence in their lives. It is therefore not surprising that the teaching role has had to take on many new dimensions. Those dimensions are determined by the varying needs of the children in a teacher's class. But who are the "typical" children in our schools, and what needs do they present?

From the time of "The Great War on Poverty" of the 1960s to the present day, there has been a "chronicle of growing concentrations of students with less of what is required to benefit fully from public schooling."⁵ These students suffer from poverty, family instability, drug and alcohol abuse, and neglect. They often are of minority membership, have handicapping conditions, or are immigrants who have just arrived in this country. Additionally, the children frequently are not well-motivated, have poor literacy skills, and show little respect for authority.⁶

Many of the special needs of today's children are a function of the fact that children are often the victims of severe poverty.⁷ This problem is particularly acute with regard to minority children. While the national statistics are alarming, those that per-

5. D. DUKE, *TEACHING: THE IMPERILED PROFESSION* 45 (1984).

6. *See id.*

7. *See* Brazelton, *Why Is America Failing Its Children?*, N.Y. Times, Sept. 9, 1990, § 6 (Magazine), at 40, 42:

Children are the poorest group in society, with more than one in five living in a household whose income is below the poverty level, \$12,700 for a family of four. Despite medical advances, the United States infant mortality rate is worse than in some third world countries, and every day more than 100 American babies die before their first birthday. About one million teen-agers become pregnant each year, and as many as 18 percent of newborns in some city hospitals are born exposed to alcohol, crack and other hard drugs.

tain to children of the inner city and extreme rural areas, and to children of minority populations are shocking. Forty-five percent of black children and thirty-nine percent of Hispanic children were poor in 1987, compared with fifteen percent of whites.⁸

Children who are born in poverty make special demands on our school system because they have the most health problems but the least access to care.⁹ Recent reports on child health in America have concluded that “[a]ll is not well with America’s children.”¹⁰ T. Berry Brazelton, a prominent pediatrician, in a recent *New York Times Magazine* cover story asked the poignant question, “Why Is America Failing Its Children?”¹¹ He succinctly put the problem in these terms:

As a pediatrician with 40 years’ experience with 25,000 children, mostly middle class, I have begun to regard the growing neglect and poverty of the young as the biggest threat to the nation’s future. I also see evidence that we could start preventing this terrible waste, with remedies available right now—but we seem to have lost the will even to think about it.¹²

Additional burdens have been placed on our schools by the huge movements of immigrants, often bringing to our country impoverished children from Southeast Asia and Central and South America. These children often speak foreign languages, come from vastly different cultures, and also suffer from poverty. While acculturating members of minority groups into the mainstream of American life has always been a role of schools, the other social needs of these children, and the inability of the family and social service professionals to provide care, accentuate this role in today’s schools. “Public schools have been given

8. *See id.* *See also* Henry, *Child Poverty Up: Blacks Hit Hardest*, YOUTH LAW NEWS, July-Aug. 1985, at 12:

The 1980’s have not been a good time for children in the United States, particularly those who are black. Poverty among all children now exists at the highest rate in 20 years, since before the “War on Poverty.” And black children are three times as likely to be poor as are white children.

9. *See* Brazelton, *supra* note 7, at 42.

10. G. SILVER, *CHILD HEALTH, AMERICA’S FUTURE* 61 (1978).

11. Brazelton, *supra* note 7.

12. *Id.* at 42. The statistics relating to child abuse and neglect are as startling as are those regarding poverty. In 1976, slightly more than one-half million cases of child abuse and neglect were reported. In 1988, that number jumped to almost 2.5 million. *See* Barden, *Foster Care System Reeling, Despite Law Meant to Help*, N.Y. Times, Sept. 21, 1990, at A18, col. 5. In 1986, more than half the children in foster care were placed there to protect them from their own parents or guardians. *See id.*

the task of socializing these students, often a task that must precede educating them."¹³

Even the children of the "typical story-book" American family of the 1950s today have very serious needs. From the years 1960 to 1972, the annual number of divorces increased by eighty percent to over 800,000 per year,¹⁴ with the result that "by 1980 12 million school-age children or one-fifth of the school population were living with one parent."¹⁵ Living in a one-parent family has been found to be a significant factor in decreased cognitive development and decreased success in adult life, caused by a lack of educational achievement, bleak occupational and economic attainment, dependence on welfare, and poor self-esteem.¹⁶ These children are more likely than those who have two parents to fail their classes, pose discipline problems, abuse controlled substances, and drop out or be absent from school.¹⁷

Teachers are also encountering problems created by the increasing frequency with which children leave for school in the morning hours without parental supervision and then return to their homes after school hours, again without any supervision. A 1982 study found that 5.2 million school aged children under thirteen are "latchkey" children.¹⁸ The lack of parental supervision has been linked to behavior problems and delinquency.¹⁹

Possibly the neediest children, and the ones who make the most demands of our schools, are those whose lives are confounded by drug abuse. As the large population of children born to drug-addicted mothers reaches the schools,²⁰ teachers

13. D. DUKE, *supra* note 5, at 46.

14. *See id.* at 47.

15. *Id.*

16. *See* I. GARFINKEL & S. MCLANAHAN, SINGLE MOTHERS AND THEIR CHILDREN: A NEW AMERICAN DILEMMA 1, 11-14 (1986).

17. *See id.*

18. *See* D. DUKE, *supra* note 5, at 47.

19. *See id.* The startling statistics of juvenile delinquency clearly illustrate the magnitude of these behavioral problems. In 1987, more than 53,305 children were confined in publicly-run detention facilities, the highest number since such data were first collected in 1971. *See* Marcotte, *Criminal Kids*, A.B.A. J., Apr. 1990, at 61. Although the data reveal that the number of youths being held for murder, manslaughter, robbery, and aggravated assault have declined, the number being held for alcohol or drug offenses, truancy, and neglect and abuse have increased by 50 percent since 1985. *See id.* at 63.

20. A legal commentator brings the problem into focus by saying that "[i]f cocaine use during pregnancy were considered a disease, its impact on children would be considered a national health care crisis." Fink, *Effects of Crack and Cocaine Upon Infants: A Brief Review of the Literature*, L. GUARDIAN REP., 1990, No. 2, at 1, 1 (published by the

are more frequently finding problems with low-range intelligence, neuro-behavioral deficits, growth disorders, and the whole range of problems associated with premature birth.²¹ Children from drug-abusive families often come to school poorly fed, improperly clothed, and tired. Additionally, they suffer from a host of behavioral and emotional problems that make them less able to succeed in the classroom. These children lack the stability and support necessary to develop positive self-esteem.

All of these statistics and observations mean but one thing: The "typical" child in today's classroom is more likely to suffer from poverty, abuse, and neglect than ever before. This reality has forced teachers—often the only stable, adult presence in the lives of these children—to take on the responsibilities of social-service providers and to care for children in ways never before expected. Consequently, the role of our teachers has been transformed from one primarily concerned with educating children to one that focuses first on meeting the basic needs of children that must be provided before they can be successfully educated.

B. *Legal Pressures*

The social plight of today's children has not been the only factor contributing to the transformation of the role of teachers in today's schools. Equally dramatic pressures for change have originated from the courts. The environment of the school has been significantly changed by judicial decisions. A well-respected sociologist of education has written that "the most potent source for change [in education] has come not from within the school system, or from state and federal policymakers, but from the courts."²²

Judicial decisions that affect teachers and their jobs have involved such broad areas as educational equity, professional

Appellate Divisions of the Supreme Court of the State of New York) (quoting Revkin, *Crack in the Cradle*, DISCOVER, Sept. 1989, at 63).

21. *See id.* at 5, 6.

22. S. SARASON, *THE CULTURE OF THE SCHOOL AND THE PROBLEM OF CHANGE* 9 (1982). *See also* L. FISCHER, D. SCHIMMEL & C. KELLY, *TEACHERS AND THE LAW* xxv (1987):

Today's schools exist and function in the midst of a complex legal environment, and it is difficult not to be aware of a wide range of legal issues that influence the lives of teachers, students, parents and administrators. It is increasingly clear that educators ignore the law at their own peril.

malpractice, and students' rights.²³ It has been observed that "the collective impact of these decisions has been to inhibit teacher discretion."²⁴ Schools and teachers have had no choice but to assimilate and accommodate these dramatic changes.²⁵

Probably the most significant of these changes resulted from the 1954 desegregation decision, *Brown v. Board of Education of Topeka*,²⁶ which has been described as a major revolution in American education.²⁷ This and other decisions²⁸ forever changed the composition of students in the American classroom. By bringing students from a range of backgrounds together into one classroom, these decisions forced teachers to raise their awareness of a myriad of social and legal issues that they previously had largely ignored.²⁹

With the passage by Congress of the Education for All Handicapped Children Act (EAHCA),³⁰ another major revolution in American education occurred.³¹ This legislation significantly increased the number of children with handicapping conditions placed in mainstream classrooms. Teachers are accordingly required to serve a much broader range of students who, as a result of their handicapping conditions, have diverse educational and psychological needs. The EAHCA also imposes due process requirements on teachers and school systems, thereby impacting teachers' day-to-day functions.³²

23. See D. DUKE, *supra* note 5, at 61.

24. *Id.*

25. See S. SARASON, *supra* note 22, at 9.

26. 347 U.S. 483 (1954).

27. See S. SARASON, *supra* note 22, at 6. The recent national debates on equity, equal opportunity, and educational funding have increased awareness that court decisions alone have not created educational equity by race or ethnic group. The disparate impact of educational funding is readily observable by a comparison of inner-city and suburban school systems. "White flight" has left minority students disproportionately represented in inner-city public schools, which cannot compete for highly qualified teachers with the resources, working conditions, and salaries offered by affluent suburban schools.

28. See, e.g., *Bolling v. Sharpe*, 347 U.S. 497 (1954).

29. While population of students continues to become more racially and ethnically diverse, the population of their teachers (outside urban and poverty areas) has remained predominantly white despite efforts to recruit and keep more minority teachers. See Loehr, *The "Urgent Need" for Minority Teachers*, *Educ. Week*, Oct. 5, 1988, at 32, col. 1. Minority students outside urban and poverty areas most often do not have role models of minority teachers and do not see a teaching faculty representative of our pluralistic society.

30. Pub. L. No. 94-142, 89 Stat. 773 (1975) (codified as amended at 20 U.S.C. §§ 1400-1485 (1988)).

31. See S. SARASON, *supra* note 22, at 6.

32. See *id.* (citing 20 U.S.C. § 1415).

The courts have visited a further impact on our schools through the relatively recent students' rights cases. These cases have created a heightened awareness of the protection of civil liberties and constitutional rights in the school environment.³³ Such issues as student dress codes, free speech, discipline and suspension, sensitive curriculum topics, and book choices are being approached with increased sensitivity. While teachers vehemently support the need to uphold individual rights and to respect the rights of students, this support is not without reservation. As one commentator has noted:

In schools beset by chronic student misconduct, according students their due process rights and completing the paperwork required by various regulations may tax personnel, retarding their ability to maintain a reasonable degree of order. When dismissed students who have behaved in a blatantly disrespectful or dangerous way are reinstated because of procedural technicalities, teachers fear reprisals and worry about classroom control. Teachers also are concerned that overemphasis on student rights may undermine respect for authority and encourage students to challenge any teacher action.³⁴

More and more, teachers are also becoming aware of the potential legal ramifications of their everyday actions. Is it "legal" to celebrate religious holidays? Can a teacher restrict student-run publications? Does a teacher have free choice in assigning books to be read or choosing a textbook? These are issues about which teachers traditionally were never concerned. Today, while they long for past levels of academic freedom, teachers work in the fear of litigation.³⁵

These social and legal pressures, which have transformed the nature of our schools, have thrust teachers today into a position of being much more than just educators. Teachers have assumed responsibilities as surrogate parents, health providers, psychologists, counselors, nutritionists, care-givers, and social workers. As public school funding is cut and resources scaled

33. See, e.g., *Tinker v. Des Moines School Dist.*, 393 U.S. 503 (1969).

34. D. DUKE, *supra* note 5, at 62.

35. See Stelzer & Banthin, *Teachers Do Have Rights*, UPDATE ON LAW-RELATED EDUC., Spring 1982, at 41. The most recent report of the Carnegie Foundation found that only 55 percent of the teachers surveyed were satisfied with the degree of control over their jobs, as compared to 75 percent in 1987. See *Poll Finds Drop in Teacher Satisfaction With Degree of Control Over their Jobs*, Educ. Week, Sept. 5, 1990, at 9, col. 1.

back, already underpaid and over-extended teachers will surely find themselves filling even more roles.

A good example of the pressures teachers face at work is the present climate within the New York City schools. When the school year began in September 1990, a newspaper headline read: "New York Schools Open, Facing Test: Do More With Less."³⁶ The accompanying story noted that, at the same time that New York City students are acknowledged to be "poorer and . . . perhaps more troubled than ever before, the schools are required to meet their needs with less money than they had the previous year."³⁷

The calls to raise the quality of education and simultaneously reduce educational funding, along with the other social and legal pressures discussed above, place an unfair burden on our teachers.³⁸ Unfortunately, few have acknowledged either the expansion of teachers' roles or their exemplary performance in fulfilling the nontraditional roles they have assumed.³⁹

III. CONSEQUENCES OF EXPANDING THE TEACHER'S ROLE

As teachers' roles have expanded, adverse consequences have arisen. All too often, teachers are finding themselves poorly trained for their new roles and confused about role priorities. "[T]he job of teaching has undergone a complex series of changes, changes leading to increased task ambiguity and insecurity."⁴⁰ As teachers take on more and different responsibilities, concern has grown that teachers may become unsure of what their primary purpose is, or even what may be done "legally" as part of a teacher's job.

Furthermore, many teachers complain that as the schools

36. N.Y. Times, Sept. 10, 1990, at A1, col. 2.

37. *Id.*

38. Much of the blame for the declining quality of education today has been focused on the competence of those who teach. To increase that level of competence, many are advocating changes in what had been an automatic process of teacher certification. The certification process now often includes testing for pre-service teachers and variations in a teacher's course of study. A particularly troubling consequence of testing for teacher certification is the adverse impact on minority candidates. Teachers have brought legal challenges against such tests in many states, on the bases that the tests produce invalid results and violate due process rights. See Cohen, *Legal Challenges to Testing for Teacher Certification: History, Impact and Future Trends*, 18 J.L. & EDUC. 229, 230 (1989).

39. See D. DUKE, *supra* note 5, at 122 ("Without teachers, it would be difficult to locate a group of comparable size which is so disposed to work for the benefit of the young.").

40. *Id.* at 119.

and their roles have undergone expansion and transformation, the "paperwork" dilemma and chain of command have become all the more intrusive and burdensome. School bureaucracies, with their expanding regulatory tendencies, threaten the autonomy of teachers. As two commentators have observed, loss of autonomy causes a "serious threat to teachers' sense of efficacy,"⁴¹ where efficacy is defined as "teachers' situation-specific expectation that they can help students learn."⁴²

Whenever teachers do not believe that they can positively affect student learning, their personal sense of competence is diminished, and their behavior changes. This in turn adversely affects student behavior and learning.⁴³ Much has been written about job "burnout" and job-related stress in all occupations. Nevertheless, teacher dissatisfaction, problems with recruitment, and exit from the profession show that the problem is particularly acute within the educational community.⁴⁴

Seven major causes of job burnout have been documented in the literature: lack of control over one's destiny; lack of occupational feedback and communication; work overload or underload; contact overload; role conflict or ambiguity; individual factors; and training deficiencies.⁴⁵ Many, if not all, of these causes stem from the increasingly common situation in which a teacher is ill-prepared for the multi-dimensional tasks entailed in today's teaching job. Such a teacher often is confused and overwhelmed by the role ambiguity and ultimately sees few positive or long-term results. One commentator has observed: "No individual can be all things to all people, especially today. Because of societal demands, increased technology, changes in the family, and a lack of trust in institutions, the typical job in today's industrial society has become more complicated, technical, political, and tenuous than ever before."⁴⁶

Their multiple roles often force teachers to attempt to please

41. P. ASHTON & R. WEBB, *MAKING A DIFFERENCE—TEACHERS' SENSE OF EFFICACY AND STUDENT ACHIEVEMENT* 23 (1986).

42. *Id.* at 3.

43. *See id.* at 145-46.

44. The Carnegie Foundation has documented this problem using data collected from a recent survey of 21,000 elementary and secondary public school teachers. The survey concluded that "teachers are increasingly unhappy with their lack of authority, with their working conditions and with the movement for better schools itself . . ." *Broad Teacher Dissatisfaction is Pointed Up in National Poll*, N.Y. Times, Sept. 2, 1990, § 1, at 24, col. 5.

45. *See* A. CEDOLINE, *JOB BURNOUT IN PUBLIC EDUCATION* 40 (1982).

46. *Id.* at 50.

varying and sometimes opposing constituencies, including school administrators, fellow teachers, parents, children, and their own family members. If teachers cannot resolve their conflicting role priorities, tension invariably results.

The increase in school-related litigation in recent years further evidences the consequences of teachers' role expansion and the resulting uncertainty. Litigation involving teachers has increased substantially in the past two decades.⁴⁷ The issues over which teachers litigate as plaintiffs have also changed. Job security has replaced teacher certification and teacher conduct as the principal issue in litigation involving teachers.⁴⁸ Whether role expansion and the resulting role ambiguity have created the impetus for this increased level of litigation has yet to be determined, but the pattern that consistently appears in school litigation is clear. Although power in the schools still resides with the school board, today's teachers are more likely than ever to seek legal redress when they perceive that their interests have been adversely affected.⁴⁹ Such litigation thus may represent a new form of teacher empowerment.⁵⁰

As the responsibilities of teachers have expanded, so too have their needs for information and support to assist them in executing those responsibilities. Today, when teachers assume additional responsibilities within the school environment, or when they teach subjects that are particularly controversial, they are often required to operate without guidelines. Because schools do not provide teachers with role definitions, and teachers are not given sufficient guidelines, it is not surprising that teachers sometimes unintentionally overstep unknown boundaries.

The lack of sufficient guidelines in combination with the expansion of teachers' roles bring to light an even more fundamental issue: defining the mission of schooling. Without a clear definition of the school's mission, how can teachers know what their job entails? The debate continues to rage about the primary purposes of public education. Amazingly, the answer to

47. See Hooker, *Commentary—Teachers and the Courts, 1965-1986*, 48 EDUC. L. REP. 7, 7 (1989) (analyzing litigation involving teachers in public schools during the years 1965 to 1986).

48. See *id.* at 10.

49. See *id.*

50. Unfortunately, the education community has not been able to redress many of the significant problems without the expense and delay of litigation.

the question "What are schools for?" has been given little attention both within schools and within institutions that prepare teachers.⁵¹ It is not surprising, therefore, that some of the most dramatic changes in schools have been the unintended consequences of social pressures and not the outcome of a well-articulated philosophy of education or well-delineated role definition for teachers.⁵²

Although the mission of American education is ambiguous, new demands for excellence in American education abound. A superintendent of schools commented that "the nation's schools are searching for concrete goals so that they may get on with the work of attaining them; but they cannot develop their own mission by themselves. Schools will need guidance from the rest of society."⁵³ If schools are to be the "cornerstone of American democracy,"⁵⁴ a realistic and attainable mission must be formulated.

What should be taught in the schools is an important aspect of the definition of education's mission. School curricula today consist of a variety of topics that are often the result of which fad is "hot" and which lobbying group has the greatest influence, rather than being the product of thoughtful choices and weighing of priorities. The inclusion of controversial, politically charged topics within the school's curriculum raises further the issue of what should be taught in schools and what is appropriately taught at home and through religion. Some believe that the teacher should share responsibility for training youth by teaching such moral precepts as respect, generosity, and intellectual honesty.⁵⁵ Others believe that the schools should teach more about religion in order to ensure that students receive a complete understanding of how history, literature, and the arts have been influenced by faith.⁵⁶ It is unlikely, however, that a heterogeneous community would ever agree that teaching about morality and religion are public school teachers' responsibilities.

51. See S. SARASON, *supra* note 22, at 261.

52. See *id.* at 186.

53. Hess, *The Dynamics of Change in American Society: Implications for School Teachers*, GOV'T UNION REV., Fall 1986, at 11, 11.

54. *Id.*

55. See Delattre, *Teaching Integrity: The Boundaries of Moral Education*, Educ. Week, Sept. 5, 1990, at 56, col. 1 (calling for an increase in the teaching of morality as part of the school's mission).

56. See N.Y. Times, Aug. 5, 1990, § 4A, at 25, col. 1.

IV. LEGAL PROBLEMS CREATED BY ROLE EXPANSION AND ROLE AMBIGUITY

As teachers are asked to assume responsibilities that go beyond their traditional roles, especially when the responsibilities involve controversial matters, teachers must be educated about the associated legal ramifications. If we expect teachers to be effective, we must provide them with policies and procedures to accompany their new roles.

A recent incident involving two teachers who worked as advisers to a high school yearbook vividly illustrates both the changing nature of the role of today's teachers and the need for better guidelines. The publication of the yearbook that these two teachers advised created national attention when it was found to contain obscenities, anti-Semitic remarks, and racial slurs.⁵⁷ As a result of the Supreme Court's 1988 decision in *Hazelwood School District v. Kuhlmeier*,⁵⁸ schools have an increased responsibility for the content of student publications. Perhaps unaware of this precedent, the teachers mentioned above may not have understood their potential power—and obligation—to abridge the students' free speech rights if the speech threatened to disrupt materially school work or to violate the rights of others.⁵⁹ The controversial language, therefore, was left in the yearbook. Even though the teachers may not have been informed of the extent of their editorial prerogative, the superintendent of the school district placed responsibility for the problem on the two advisers and called for their termination.

The advisers agreed to accept a ten-day suspension and to issue public apologies. While it is most regrettable that any student was demeaned by the contents of the yearbook, it is also troubling that only after this incident did the school district "consider[] a set of standards for student publications."⁶⁰ Teachers should not be held solely responsible for an error when the school district permitted them to operate without appropriate procedures.

A recent incident in a Long Island school sparked further de-

57. See *Yearbook Incidents Spark Debate on Advisers' Role*, Educ. Week, June 13, 1990, at 6, col. 1.

58. 484 U.S. 260 (1988).

59. See *Kuhlmeier v. Hazelwood School Dist.*, 795 F.2d 1368 (8th Cir. 1986).

60. *Update*, Educ. Week, Sept. 12, 1990, at 3, col. 2.

bate over the proper role of today's teacher. In spring 1988, Janet Morgan, a tenured, middle-school social studies teacher, gave her class an essay assignment in which the students were asked to react to a statement made by Jimmy (the Greek) Snyder about the role of blacks in sports that resulted in his firing by a television network. As part of the assignment, Ms. Morgan, who is black, gave the students copies of an editorial cartoon and letters to the editor published in a daily newspaper. One of the published letters was written by Ms. Morgan herself.⁶¹

When parents complained that Ms. Morgan should not have expressed her opinion to the students, the superintendent asked that she retract the assignment. Ms. Morgan refused to do this and also refused to turn over her lesson plan and grading sheet as requested. The refusal led to Ms. Morgan's suspension and a very bitter controversy that ultimately has been reviewed by the New York State Commissioner of Education.⁶²

The incident resulted in a lively debate over academic freedom and the teacher's role in the classroom. The community in which Ms. Morgan taught is racially divided, with a large number of poor, black families living on one side of a major avenue, and more affluent, non-minority families living on the other side. The community contains all the elements of tension that could easily divide families and educators along racial lines, irrespective of the teaching issue under debate.

Ms. Morgan has claimed that her choice of teaching procedures is an aspect of academic freedom. The school district disagreed and claimed that Ms. Morgan has refused to acknowledge their rightful authority to supervise her actions. New York State Commissioner of Education Sobol ruled that Ms. Morgan was guilty of insubordination by not submitting the grade book as requested, but more importantly, he rejected the school district's request that Ms. Morgan be dismissed. Dr. Sobol's remarks on academic freedom clearly reflect his interpretation of the teacher's role in today's classroom:

School administrators play an important role in overseeing curriculum, but teachers must be given latitude to enable them to teach the curriculum in the most effective manner.

61. See *Sobol: Malverne Erred*, *Newsday*, Apr. 21, 1990, at 3, col. 1. See also Address by Terence O'Neil, Annual School Law Conference, Suffolk and Nassau Academies of Law (Dec. 5, 1990).

62. See *Sobol: Malverne Erred*, *supra* note 61; Address by Terence O'Neil, *supra* note 61.

Within the broad parameters of curriculum, a teacher must be free to engage in classroom discussion and debate in order to stimulate the exchange of ideas and critical thinking. Teachers are not neutral conduits of information from some external source to pupils' minds; they are active participants in the process of inquiry, raising questions, stimulating thought, and modeling commitment by expressing their own views.⁶³

Unfortunately, the controversy has not yet come to an end. The school district has filed an appeal to the New York State Supreme Court. The district contends that Commissioner Sobol did not follow previous case law in rendering his opinion, and, moreover, if the decision is upheld on the basis of academic freedom, school administrators will be unable to influence either the content of classroom teaching or the methodologies that teachers employ.⁶⁴

Another example of the problems created when teachers are expected to perform without clear guidelines is the debate regarding how to teach the mandated "hot potatoes" of the new school curriculum: sex education and AIDS.⁶⁵ Here, the debate has focused on whether the purpose of teaching these subjects is to instruct students that "certain behaviors are simply wrong and must be avoided or whether children should be educated to make their own informed decisions."⁶⁶

As this debate continues, teachers are understandably uncomfortable with their role in teaching these subjects. A private conversation with an official of the United Federation of Teachers (UFT) confirmed that the UFT is very aware of teachers' insecurity in their role as instructors of family life and sex education.⁶⁷ Teacher complaints to the UFT have focused on inadequate preparation to teach these topics and the lack of textual materials. Teachers obviously need training, support, and role clarity when they are asked to assume responsibility for teaching these and other controversial subjects.

The State of New York has started the process of providing its teachers guidelines in some of these nettlesome areas by

63. Board of Educ. of the Malverne Union Free School Dist. v. Janet Morgan, No. 12320, slip op. at 4 (Comm'r, Educ. Dep't of State of N.Y. Apr. 17, 1990).

64. See Address by Terence O'Neil, *supra* note 61.

65. See Suro, *Family Feuds*, N.Y. Times, Aug. 5, 1990, § 4A, at 26, col. 1.

66. *Id.*

67. Telephone interview with official of the United Federation of Teachers, New York City (Aug. 1990).

universally defining teachers' responsibilities to report child abuse.⁶⁸ The legislature has also enacted legislation that requires school districts to provide specific training for teachers in this area.⁶⁹ Accordingly, each school district in New York is now required to educate teachers about the signs and symptoms of child abuse and to establish procedures for reporting child abuse. These procedures are intended to ensure confidentiality for the reporting teacher and to protect the child.

These guidelines, however, are just the first step. Comparable guidelines need to be developed in all states to address the full range of legal and social issues with which today's teachers are faced. Only with such guidelines will teachers know and understand their rights, their responsibilities, and, even more significantly, their roles.

V. SUMMARY AND CONCLUSIONS

Current research on educational reform has led some to claim that teaching is a profession in jeopardy. Two experts have concluded that "our research indicates that the psychosocial conditions in the schools—the isolation of teachers, their uncertainty, their lack of support and recognition, and their sense of powerlessness and alienation—make it difficult for teachers to maintain a high sense of efficacy."⁷⁰

The transformation of the role of our teachers and the uncertainties that have resulted are undoubtedly primary reasons for why the teaching profession has been so jeopardized. Today's teachers are as much providers of social services as they are educators. Their roles today are very different from the "traditional" teacher of past generations, yet their training remains largely the same. Teachers are often unaware of and still ill-prepared for the legal and social ramifications of their new responsibilities.

But while the expansion of the role of our teachers has undoubtedly had many adverse consequences, there are some positive aspects to the expansion. The multiplicity of psychosocial needs of children are better addressed by many segments of the education establishment. Support services for children, not only academic but psychological and medical services as

68. See N.Y. SOC. SERV. LAW § 413 (McKinney 1990).

69. See N.Y. EDUC. LAW § 3004 (McKinney 1990).

70. P. ASHTON & R. WEBB, *supra* note 41, at 150.

well, are being built into school programs.⁷¹

In addition, new programs are being created in which schools are truly working in partnership with other community institutions and are involving parents as part of the school team, thereby building trust relationships among parents, teachers, and school administrators.⁷² Such concepts as "school-based management" and joint decisionmaking are being incorporated into the operation and management of schools, giving teachers more ownership in the programs in which they work. The concept of "teaching as a profession" has been used to elevate the stature of the work that teachers do and thus to attract and keep well-qualified teachers. Teacher preparation has been expanded to include new dimensions to equip teachers with the skills and knowledge that they will need to be effective professionals in today's environment.⁷³ Teaching internships, which provide more "on the job" training, have been reemphasized. It appears that teachers also are less compliant in passively accepting regulations or conditions that make their jobs untenable, more active in their professional unions, and more willing to become litigants against school districts if they feel their rights are being usurped.

71. See Schwartz, *Making the Grade*, NEW YORK MAG., June 11, 1990, at 36, 39.

72. See Brazelton, *supra* note 7, at 90. As a Law Guardian for children in Nassau County Family Court, I have had the opportunity to participate in multi-disciplinary team meetings held by school districts to monitor and ensure the well-being of students in their districts. One such team with which I work is composed of teachers, school administrators, school psychologists, school district social workers, hospital-based child-study team members, community counseling personnel, grandparents, and the law guardian. This unique partnership helps to coordinate efforts and provide for the multiple needs of a pre-school, developmentally-delayed child born prematurely to addictive parents, and to the child's two school-aged siblings who are also in special education programs.

73. See, e.g., N.Y. COMP. CODES R. & REGS. tit. 8, § 80.14 (amendment proposed Apr. 6, 1990):

An approved teacher education program is one which prepares the teacher to create a developmentally appropriate learning environment; to work effectively with children from minority cultures, children from homes where English is not spoken, children with handicapping conditions, and gifted and talented children; to provide appropriate opportunities for children to engage individually and cooperatively in self-initiated, group-initiated, and teacher-initiated activities that will enable them to construct their own understandings of social relationships, relationships in the physical environment, and the use of linguistic, numerical, and artistic symbols and tools for increasing understanding and communicating; to record and assess children's progress; to collaborate effectively with co-workers; to communicate, plan, and work effectively with children's families; and to use community resources, programs, and services appropriately. . . .

In spite of these positive developments, more needs to be done, including the following:

1. Strengthen pre-service and in-service teacher education programs to inform teachers about the roles they will be expected to fulfill and to equip them with the necessary skills to perform effectively in those roles.
2. Create support systems in the school so that teachers have both referral networks and access to assistance when they discover students with unmet needs and when they themselves require assistance to address the problems of very needy children.
3. Improve the job security, monetary compensation, and status of teachers, and work to elevate public opinion regarding the value and expertise of teachers' roles in the lives of children.
4. Clarify teacher roles in the school system and provide guidelines for teaching controversial subject areas. Teachers should be included in the development of district guidelines and procedures, and new teachers should become well acquainted with this information.

While these specific suggestions should be implemented, more broad-based concerns should be addressed as well.⁷⁴ Many recognize that teachers' jobs have changed dramatically to meet the needs of a our nation's youth, but there has been no general public acknowledgement of the complex work that teachers do.

The priorities of education must be made clear. How can this nation strive for excellence in the world marketplace and produce well-educated and technologically sophisticated citizens when so many children are lacking the basics of a decent life? If social service systems cannot address the needs of today's youths, and if the schools are to continue to be providers of more than education alone, educational priorities and the work of teachers need to be reconceptualized by public policymakers.

School personnel should be trained to become "resource locators and coordinators, constantly scanning school and community in order to match needs in a mutually productive manner."⁷⁵ The job of teaching must also be made exciting, rewarding, and enjoyable. Teachers must be chosen based upon criteria that will distinguish them as professionals; they

74. See, e.g., D. DUKE, *supra* note 5, at 134-49.

75. S. SARASON, *supra* note 22, at 276.

must be trained as professionals; and they should be acknowledged and compensated as professionals. Schools should be reorganized both to meet the needs of children and to remove the bureaucratic constraints that presently demean teachers.

For the good of our youth, it must be acknowledged that teachers are composed of a group of dedicated individuals who are ready, willing, and able to tackle the demands of the classroom and the needs of the children in their charge. Until it is fully acknowledged, however, that the role of teaching has been dramatically changed by the dynamics of societal needs and legal dictates, and until systems are created to educate and support teachers for these new responsibilities, many teachers will remain frustrated, confused, overburdened, and ultimately less able to educate our children.

