

“ Professor and School Administrator Accountability”

by

Patricia S. Wall
JD, CPA, MBA, Ed.D.
Associate Professor of Business Law
Middle Tennessee State University

and

Frederick L. Sarver
Associate Professor of Finance
Middle Tennessee State University

Abstract

According to a WallStreet/NBC News poll, 59 percent of all adults consider education essential to getting ahead in life.¹ At the same time, an increasing number of adults have begun to blame educators for their failure in life, claiming educational malpractice. Historically, education has been more of an issue at the state and local levels.

Courts do not recognize educational malpractice as a tort because of public policy concerns, saying that claims of “educational malfeasance” are not capable of assessment within the judicial forum. Over 20 years have passed since the California Appellate Court dismissed the *Peter* case brought for negligent breach of duty to educate.² This paper will survey lawsuits involving teachers and administrators brought since *Peter*. The cases will be reviewed in the following categories³:

¹Albert R. Hunt, *Education is Seen as an Essential Ingredient for Success*. Wall Street Journal, March 14, 1997, R4.

² *Peter W. v. San Francisco Unified School District*, 60 Cal App. 3d 814 at 824-825 (1976).

³ Ronald B. Standler, *Educational Malpractice in the U. S.A.* [On-line]. (2000, 2013) Available: www.rbs2.com/edumal.htm.

- “Failure to teach” cases, involving plaintiffs’ allegations of being graduated from high school despite being functionally illiterate and unable to make a living.
- Misclassification cases, involving children of normal intelligence being misclassified as retarded.
- Denial of an effective and appropriate education cases, involving pupils with a normal intelligence but with a learning disability such as dyslexia.
- Athletic scholarship cases, involving student athletic scholarships who attended college on athletics but acquired no intellectual skills.
- Cases involving health professionals charged with medical malpractice, who in their defense allege inadequate instruction by medical schools: Also, cases involving third-party beneficiary claims under this.
- Private or vocational school cases, involving students who are unable to find employment in their specialties.

We will analyze the factors in each area that have lead to successful recoveries. These data will be used to recommend future policies and procedures to avoid such claims. We will also consider some new areas of liability for professors and administrators: conducting study abroad programs and helping students gain employment.