

The Fourth ‘R’ of California’s School Districts: ‘Ripped off by Litigation’



*A Report from Citizens Against Lawsuit Abuse
January 2008*

The Fourth ‘R’ of California’s School Districts:
Ripped Off by Litigation

Table of Contents

Introduction.....2

Methodology.....4

Litigation Costs of Selected School Districts.....4

Discussion.....6

Appendix.....9

Introduction

Lawsuits (and lawsuit abuse) are present everywhere we turn. In addition to the usual targets of trial lawyers – businesses and the medical community – public sector entities are also subject to baseless litigation. The result of these wasteful lawsuits is a depleted economy, lower tax base, wasted government spending and less funding for essential services.¹

This report explores the financial burden of lawsuit abuse on California's school districts. In addition to taxpayers whose money is wasted on these lawsuits, many victims of lawsuit abuse are not even old enough to cross the street unattended. Our school systems have become all too popular targets of predatory lawsuits which, combined with ever-stretched school districts' budgets, have contributed to the decline of many educational programs such as music, theater, health and physical education.

While there is no denying that some lawsuits against schools have merit, others call into question the motivations of those who file them. For example:

- In Santa Rosa, a middle school student sued school administrators for unspecified monetary damages after she was disciplined for using the phrase “that’s so gay,” claiming that she was singled out for punishment and that the school failed to protect her religious rights, since that phrase was said in reaction to teasing she was enduring about her Mormon upbringing. A judge ruled against the student and her family in the case.²
- In Los Angeles, a father filed a lawsuit seeking \$1.5 million in damages from a school district after his 15-year old son was demoted from the varsity to the junior varsity basketball team. The suit claimed the demotion was “messing up [his son’s] future and professional earnings.”³
- A lawsuit was filed by middle school students in Napa, claiming a middle school’s “no-logos, no-denim” dress code violated their constitutional rights after a student was disciplined for wearing socks with the Winnie the Pooh "Tigger" character on them. Napa Valley Unified School District was ordered to pay at least \$95,000 in lawyers’ fees under the settlement reached with the families. The district is also responsible for paying the lawyers it hired.⁴

¹ For CALA’s previous study on the impact of litigation to California’s cities and counties, please visit www.cala.com.

² <http://www.californiabusinesslitigation.com/education>

³ *Los Angeles Times*, May 5, 2003

⁴ *Associated Press*, December 14, 2007; *Napa Valley Register*, December 14, 2007

People who are injured or wronged certainly deserve justice, but a quick look at the cost of lawsuits indicates that lawsuits are taking an enormous toll on our education system. Instead of focusing on providing our children with high quality education, teachers and school administrators are forced to defend themselves against everything from disputes over grades to film selection. In addition to distracting educators, such lawsuits tie up our courts and drain our tax dollars.

When we send our children to school, we are entrusting their administrators, principals and teachers with an awesome responsibility: that of helping to shape our children into the adults they will become. In order to do this to the best of their ability, these professionals must have the community's support. If teachers are too scared to teach and principals and administrators are wary to properly enforce school rules for fear of liability, our children will pay the price. With the value our society places on education, it is no surprise parents aggressively advocate for their children's academic success. The resulting conflict at school between parents and teachers is to be expected, but to give our children the best tools for the future, we must find alternative dispute resolutions that do not result in our schools being denied the very resources they need to successfully educate our children.

Methodology

In order to examine the impact of litigation costs on school districts, Citizens Against Lawsuit Abuse (CALA) made inquiries to the following districts: Los Angeles Unified, Elk Grove Unified and San Diego Unified. District representatives were asked to provide the amounts their respective school districts spent on verdicts, settlements and outside counsel for fiscal year 2005.

Once the litigation costs were received, CALA examined the costs of common school supplies, as found on the Internet to find items for cost comparison purposes. The full sources for these items are noted throughout this report.

Litigation Costs of Selected School Districts

In fiscal year 2005, three of California's five largest school districts (listed above) paid \$32.8 million in litigation costs - \$8.0 million in verdicts and settlements and \$24.8 million to outside counsel (See Table 1).

Already overburdened school districts must suffer through these costs and spend money for legal purposes in lieu of much-needed school supplies, infrastructure upgrades, teacher salaries and other needs.

For example:

- This money spent in Los Angeles could have bought 29,222 Los Angeles Unified students laptop computers;⁵
- In Elk Grove, the district could have provided nearly 25,000 of its more than 61,000 students with a text book;⁶
- Elementary school kids in San Diego Unified School District could have received 1.8 million packs of Crayola Crayons.⁷

The combined costs of these three districts could have provided substantial supplies for the 6.3 million students statewide, such as:

- Hallways could have been upgraded with 254,263 school lockers;⁸

⁵ Sony - VAIO T2060 Notebook Laptop available at www.bestbuy.com (list price of \$899.99).

⁶ Sample textbook: "Algebra 1" (California Edition) by Stanley A. Smith available at www.amazon.com (list price of \$76.08).

⁷ 24-pack available at www.crayolastore.com (list price of \$2.49).

⁸ Penco 68xx1 - Quick Ship: Vanguard Unit Packaged Lockers - Single Tier - 1 Section (Assembled) - Recessed Handle lockers from available at www.classroomfurnituredirect.com (list price of \$129.00).

- A graphing calculator could have been provided to 252,327 math-savvy high school students;⁹
- Note-taking could have been made easier with 22.2 million notebooks;¹⁰ or
- The salaries of 566 teachers could have been paid.¹¹

Table 1: School District Litigation Costs, Fiscal Year 2005 (in millions)

School District	FY05		Total
	<u>Verdicts & Settlements</u>	<u>Legal Services</u>	
Los Angeles	\$5.8	\$20.5	\$26.3
Elk Grove	\$0.8*	\$1.1	\$1.9
San Diego	\$1.4	\$3.2	\$4.6
GRAND TOTAL	\$8.0	\$24.8	\$32.8

**Elk Grove Unified reported premiums paid for liability insurance rather than actual verdicts and settlements.*

For all of the information available from these three school districts, more than \$203,000,000 was spent on litigation between Fiscal Years 2002 and 2007. Because Fiscal Year 2005 is the only year data was available from all three districts, this number could certainly be higher. For a more comprehensive table of each district, please see the Appendix.

⁹ Texas Instruments TI-84 Plus Graphing Calculators available at www.staples.com (list price of \$129.99).

¹⁰ Staples 1 Subject Notebooks available at www.staples.com (list price of \$1.48).

¹¹ Based on average 2004-05 California teacher salary of \$57,876, according to the California Department of Education. <http://www.cde.ca.gov/re/pn/fb/documents/factbook2007.pdf>

Discussion

Education is perhaps the most critical factor in shaping our youth and preparing them for adulthood. With budget allocations for public education already tight, a thorough examination of every dollar in those budgets is a necessity. This report demonstrates the devastating impact lawsuits against schools, school districts, teachers and boards of education have on our educational system.

Regardless of whether school officials choose to fight or settle lawsuits, considerable resources are diverted to deal with cases that involve districts. In fact, the sheer threat of lawsuits has impacted the way that schools are run. A 2004 study by Harris Interactive revealed that more than half of educators are concerned about the risks of legal challenges in their jobs and most educators feel the current legal climate has resulted in “defensive teaching.”¹²

Other findings of the study include:

- 77 percent of principals think that principals (other than themselves) avoid decisions that they think are right simply because they might be challenged legally;
- 61 percent of teachers think that teachers (other than themselves) avoid decisions that they think are right simply because they might be challenged legally;
- 77 percent of teachers and 81 percent of principals believe that increased laws, rules and legal mandates have hurt their ability to do their jobs;
- 63 percent of teachers and 64 percent of principals believe that the increased potential for legal challenges by students or parents has hurt their ability to do their jobs; and
- 88 percent of teachers and 77 percent of principals think replacing legal hearings and lawsuits with oversight by a school-based committee including teachers and parents would help improve the quality of education in their schools.

Nationwide, lawsuits have caused an end to school activities many of us grew up with, such as recess and tag. Schools outside California have banned dodgeball, there are ‘no running’ signs on some playgrounds and games like ‘Tag’ and ‘Duck Duck Goose’ are causing great concern to schools and school districts nationwide.”¹³ Yet, these bans are coming at a time when childhood obesity is growing exponentially due to the sedentary lifestyle of American youths.

Every indication is that our schools are in need of serious help. Low test scores, high dropout rates, low attendance rates and myriad other problems have attracted the attention of the nation. If we do

¹² *Evaluating Attitudes Toward the Threat of Legal Challenges in Public Schools*, March 2004

¹³ *Washington Times*, October 5, 2007

not give our children the tools they need to become the next generation of doctors, businesspeople, scientists, teachers and, yes, even lawyers, we are setting our society up to fail.

The \$24.8 million dollars these three school districts spent on litigation could have funded projects big and small, from restoration of school facilities to reinstatement of classes like health and

music to updated text books. This number, while already large, likely represents a small portion of the total amount California’s schools spend on litigation costs. Although the districts in this report represent some of the state’s largest, there are more than 1,000 school districts statewide.

With all the attention our educational system receives, the fact that litigation costs are not considered a contributing factor to a school’s

“Our decision to implement an interim revised dress policy... was made to avoid the certain continued time, unreasonable expense and disruption to our primary mission of educating students that this litigation ensures.”

– *John Glaser, superintendent, Napa School District on decision to settle, rather than fight, a lawsuit about the district’s dress code.*

failure is a testament to the sway personal injury lawyers hold over our policy makers. Unscrupulous lawyers do not care who they take the money from, as long as it ends up in their pockets.

In some cases, school districts such as Elk Grove Unified are moving to protect themselves through programs such as the California Joint Powers Insurance Authority (JPJA), which provides a range of insurance coverage options to its members, including liability protection. Other districts, such as Santa Ana, are employing risk management officers in part as a measure to fight predatory lawsuits.

Taking money out of our classrooms and putting it in the courtrooms is never good for our educational system. Although some lawsuits certainly have merit and deserve to be heard, many are nothing more than a waste of time and resources, and ultimately, it is our children who suffer.

Unfortunately, it is often easier to settle a lawsuit without merit than to fight

it. Because of the lawsuit referenced above, a middle school in Napa Valley Unified School District recently changed its dress code to avoid the time and money that would go into fighting the lawsuit, even though the school had support from much of the community and likely would have prevailed in court.

“We believe the Plaintiffs have not engaged in any meaningful attempt to engage with us to resolve the issue and have taken steps to prematurely inflame the situation, in an apparent attempt to increase their own costs, as well as the District’s in defending it.”

–*John Glaser*

The public must stand up for those who are too young to stand up for themselves. Our children deserve a high-quality education, teachers deserve our appreciation and administrators need our support. We cannot allow our time, money and resources to be shifted away from the classroom, especially when the effect makes personal injury lawyers richer and our kids poorer.

Personal responsibility used to be engrained in the educational system. Students were taught early on that actions had consequences. Lawsuits with the sole purpose of making easy money by searching for a deep pocket to blame teach children to not accept responsibility for their actions. Such lessons have no place in our classrooms or our courtrooms.

Appendix

Below is the expanded information for the school districts of Los Angeles Unified, Elk Grove Unified and San Diego Unified, for fiscal years including and around 2005.

Los Angeles Unified (in millions) – FY 2002 – FY 2005

	Outside Counsel	Verdicts and Settlements	Total
FY 2002	\$30.7	\$49.9	\$80.6
FY 2003	\$29.0	\$14.5	\$43.5
FY 2004	\$25.2	\$7.7	\$32.9
FY 2005	\$20.5	\$5.8	\$26.3
Grand Total	\$105.4	\$77.9	\$183.3

Elk Grove Unified (in millions) – FY 2005 – FY 2007

	Outside Counsel	Liability Insurance	Total
FY 2005	\$1.1	\$0.8	\$1.9
FY 2006	\$1.1	\$1.1	\$2.2
FY 2007	\$1.1	\$1.3	\$2.4
Grand Total	\$3.3	\$3.2	\$6.5

San Diego Unified (in millions)

	Outside Counsel	Verdicts and Settlements	Total
FY 2005	\$3.2	\$1.4	\$4.6
FY 2006	\$3.3	\$0.8	\$4.1
FY 2007	\$4.2	\$0.3	\$4.5
Grand Total	\$10.7	\$2.5	\$13.2