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Reverend Robert J. Yeager, Executive Director National Catholic Education Association,
Washington, D.C.

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LEGAL NEEDS OF CATHOLIC SCHOOL ADMINISTRATORS

REVEREND ROBERT J. YEAGER

The subject of this discussion is "Legal Needs of Catholic School Administrators." Before I address this issue directly, I would like to offer several "limitations" to my remarks. I believe that in the pre-Vatican church these "limitations" might have been called the state of the question. I am the Executive Director of the Secondary School Department of the National Catholic Educational Association and wish to make it clear that I will be speaking about my perception of the legal needs of secondary school administrators. Although I suspect that many elementary school administrators would have the same or similar needs, I do not wish to be so bold as to speak for them.

Our department represents some 1,321 schools and about 400 individual members. There are approximately 1,480 Catholic secondary schools in the United States. At least 50 percent of the membership of our department consists of schools owned or operated by religious men and women. Most of the schools that we serve are not in the largest ten dioceses of the United States. Many of our colleagues, therefore, do not have a large diocesan structure surrounding them.

Let me note, that while there may at times be certain tensions between your ministry and mine in the church, our ministries are not by their very nature antithetical. You and I are both exercising a ministry of support to those who are in the front edge of an educational delivery system. Personally, I have had more relationships with lawyers than the average priest of my background and ecclesiastical experience. My point in making this assertion is that it is my observation that the heart of law practice is communication, whether verbal or written. In fact, it is the attempting to discover the truth behind what is being said that seems to give reason to the legal profession.

School administrators and attorneys must begin to speak to each other if our schools are going to be viable. While attorneys have the abstract expertise and knowledge that our administrators so desperately need, school administrators have the expertise of experience and day-to-

day tensions which attorneys need to know if they are to be successful in their application of law at the school level. Our secondary Catholic schools are not administered by pious old sisters and brothers who spend most of their day with hands folded in prayer. I am certain that you do not see them as people with whom you can communicate.

I have a hope! Why could not our meeting here in Savannah this afternoon be the beginning of a real dialogue—examining what we are doing with our legal issues in Catholic education? How could we do this in ways that would be the most productive both for lawyers and administrators? Our schools, all schools in our nation for that matter, are one of the most legally viable and liable institutions. They deserve our best efforts.

School administrators want to meet with lawyers so that they may learn first hand how to communicate with them. A lawyer would never think of sending a letter to court to represent a client before a jury, so why are they content to communicate with our school administrators in this manner? School people in every diocese meet several times a year. Would it be impossible to be a part of just one of these meetings? It is my belief that you will find the administrators of your diocese in need of, not only knowledge of the law, but also a development of skills and techniques through which they can bring justice to their own school on a day-to-day basis. It is my experience that administrators do quite well in using a case study method at such a session.

I have two points that I really must plead with you. School administrators are truly professional people, who, from their training, have some sense of when it is appropriate to seek legal aid. For the most part, they do not tend to be overbearing in making contact with lawyers. When they do call, therefore, they need to be heard and responded to. If a lawyer personally does not feel comfortable with this type of work, he should refer it to someone else, either in the office or elsewhere.

I fully realize that many dioceses retain attorneys who are general practitioners. The mark of a great general medical practitioner is knowing when to make referrals. I would not think that a general practitioner who decided that he should perform brain surgery would be judged favorably.

I do not consider it appropriate today to detail many of the substantive issues which we need to consider in the future. If we were to do this, I suspect that we would discuss, among other things, unemployment compensation, pupil rights, teacher rights, title IX, and IRS areas such as the removal of tax exemption and methods that parents currently employ to pay tuition. Our dialogue might even move us someday into the area of working together in the creation and formulation of state and federal laws that would enhance our Catholic schools' existence.

May I point out that we are working within the Catholic Church. Our call to service is not just to the practice of civil law, but to hear the man-

date of Jesus, that all should enjoy faith and justice. Our schools are especially busy in preparing students, who as adults will have internalized behaviors that will be necessary to work for faith and justice for all people. May I ask—not in an angry, questioning mood, but as one who just cannot reach a satisfactory answer by himself—where have all of you been in helping our schools develop this concept of justice for which the Church not only calls, but commands us to instill in our young people?

Here are several concrete suggestions to initiate our dialogue:

1) Let us begin to educate our administrators in some of the pertinent “how to’s” that we would like to see practiced. We have preventive everything today—preventive maintenance contracts, preventive medicines—why not practice a little preventive legal service?

2) While we are doing this, and hopefully getting to communicate with each other better, we will be looking for new areas for discussion with one another.

3) Let us not leave this beautiful town without resolve to be part of at least one meeting of school administrators during the 1981-1982 school year. In our meeting we will review simple techniques and procedures which administrators may apply to legal concerns.

4) In some forum, let us address the question of the delivery of legal services to religiously owned and operated schools. Our department must address this question each day. We need to know how you intend to communicate with these schools. Do we want them seeking their own legal counsel, or would we like to have them be part of the diocesan USCC structure?

5) Two points specific to the National Catholic Educational Association Secondary School Department:

a) We need a national clearing house that will gather information on all school related cases, especially Catholic and nonpublic ones. We could fulfill this function if you were to help develop such an informational pool. This clearing house would become a well from which you could draw for future cases.

b) Our department wishes to be unequivocal about this. We wish to work with you and with the United States Catholic Conference both at the state and national levels. Perhaps, some small task force from within your membership could meet with our department in an attempt to address the school’s legal concerns. We have served notice through our Legal Education Project that our membership *will* address its legal concerns. We are currently doing this; we would like to do it with you.