

# It's <sup>all</sup> ~~None~~ of Your Business Ignorance is Not Bliss

**B**ecause we generally have good relationships with our students and colleagues, we may be naïve about legal issues that can affect our studios. We certainly don't expect our work to result in a law suit or criminal charges. Yet, we can break a law unwittingly or be unjustly accused of breaking the law. We, therefore, must be aware of the legal issues concerning us as professional music teachers.

**Accusations of abuse:** Although most of us would never touch a child improperly, we must be careful about affectionate hugs or even touching hands or arms without permission. Most of us teach in enclosed spaces with no other adults present. Accusations of improper conduct by students have ruined careers of teachers who are highly regarded in their community. A recent e-mail sent to a number of teachers read, "I know of two teachers of long-standing reputation, whose careers were recently damaged by false accusations from unstable students. One still sits in an adjacent state's penitentiary, awaiting a decision

**Beth Gigante Klingenstein,** NCTM, has been an independent music teacher for twenty-eight years and is on the faculty of Valley City State University (VCSU) in North Dakota, where she also is the director of the VCSU Community School of the Arts.



on an appeal. His career is entirely over after over thirty years of excellent teaching."

An accusation of misconduct can result in a lengthy and expensive legal battle and possibly in paying a large settlement. Each of us needs an insurance policy to help cover the costs of a major law suit should one occur. An umbrella policy or liability insurance policy of \$1.5 million is not excessive and should be considered a necessary business expense. MTNA, through the Robert H. Clarkson Agency, offers members liability coverage.

**Injury in the studio:** If someone trips on our steps and breaks a leg, we are liable for damages. What if a student can't breathe? When a student has an allergy to dust, animals or peanuts, or if they have any medical problem, we need to be informed of the condition on a registration form. We then can take steps to protect ourselves, such as banning peanuts from the studio/home.

**Zoning laws:** Zoning laws exist to protect a community from unwanted development. For instance, zoning laws prohibit liquor stores from being built across from high schools, or garbage dumps from being placed in residential neighborhoods. Problems begin when we are unaware of the laws and suddenly find our right to teach in our studio threatened, or when the laws are excessively restrictive. Zoning laws vary from community to community and may require the teacher to:

- Limit the number of students allowed in a studio on any given day or at any one time.

- Allow only people living in the home to work there.
- Set specific guidelines for impact on neighborhood traffic, parking and noise.
- Forbid external business signs.
- Set acceptable hours of teaching.

Teachers who employ others in a business may need to abide by additional zoning laws and building codes.

**Business license:** In many communities, a business license is required to operate any type of business, including a home business. A signed document stating one is aware of the zoning laws and is willing to comply with them may be required before a business license can be obtained. This agreement might be called a letter of approval, an occupancy permit, a special use permit or a home occupation agreement.

A business license often requires an annual fee, which may be determined by the studio's gross annual income. If we have been teaching without a license where one is necessary, we have broken the law and may be required to pay a penalty.

By obtaining a business license, we protect ourselves from possible complaints from neighbors about our studios. If, however, a neighbor complains and we have not complied with zoning laws and do not have a necessary business license, we may be forbidden from teaching in our home ever again. Such encounters have resulted in lengthy legal battles costing thousands of dollars for unprotected teachers.

**Additional ordinances:** We also may need to abide by the rules of a

homeowner's association, condominium association, apartment building or some other specific ordinance. Any of these could forbid the existence of a home business or limit traffic, parking, noise, number of clients and so forth. We will not be forgiven for noncompliance because we have been unaware of these ordinances.

**Unauthorized use of information or images:** Before we print a student's phone number or address in any document, such as a swap list, we need written permission from the parent or guardian. The same applies to using a student's picture in a publicity brochure, newsletter or web page. A picture from our recital may look great on a web page, but if the parents have not given written permission to publish their child's picture, a lawsuit could ensue.

**Legal issues with employees:** When hiring other teachers to teach in a business we run, there are added legal issues to consider.

First, a background check should be done on each employee. Agencies such as a child abuse registry or the state police department charge a minimal fee to conduct such a check. An example of why this is necessary comes from a community school in Pennsylvania that hired a new violin teacher in 2001. The parents of a twelve-year-old studying with this teacher complained to the school's director that the teacher had bounced their daughter on his lap during lessons and kissed her on the lips. The teacher was arrested, removed from his job at the school and put on trial. He can no longer teach lessons (even in his home) without another adult present. No parents sued the school, but the school lost 70 of their 240 students, 5 teachers quit, and they were advised to not do any school

fundraising during the year of the trial, creating a serious financial setback. Of course, a background check will uncover such misconduct only if the teacher had been arrested in the past.

Second, each teacher should sign a well-worded contract or employee handbook specifying the duties, salary, hours and so forth the job involves.

Third, each employed teacher must sign a non-compete clause. A non-compete clause (examples can be found on Google) is worded so an employed teacher cannot take the students recruited by and taught in the employer's business and then transfer them to a new studio run by that employee.

A multi-teacher program in Ohio was recently the victim of just such an attempt. Two long-time teachers resigned from the school within ten days of each other. Soon after, a student's parent told the director about a letter concerning the new business these teachers were starting. She discovered that most of her 350 students had received a similar letter. After an unpleasant legal battle, the former employees signed an agreement that included payment of a fine and prohibition from teaching any students who had ever been students of the school prior to the settlement. The school's student lists were deemed property of the owner and cannot be used for any purpose (even holiday cards) by others. The director now has her employees sign a firmly worded non-compete clause and marks all copies of her student list as "confidential."

**Legal help:** If you decide to use the parent of a student as a lawyer, be sure to discuss rates and expectations just as you would with any lawyer. If you assume the parent will do the work gratis, you may be in for an unpleasant surprise.

**Use of small claims court:** We can use the legal system to our advantage should the unfortunate situation develop where a parent will not pay money that is due:

- Document the amount due and the method for payment (monthly, semester and so forth) on a policy sheet and in a registration form before the student starts lessons, as well as at the start of each school year for returning students.
- Have a place for a parent or guardian to sign on both the policy sheet and the registration form stating they agree to all the policies listed, including tuition.
- If a parent or guardian does not pay the tuition when due, send a letter requesting payment of overdue funds.
- If the first letter is ignored, send one or two additional written notifications requesting funds and stating you, unfortunately, will need to take the issue to small claims court, if the tuition is not paid.
- Keep copies of all letters and the original signed policy sheet and registration form.
- After sending the final letter, take all documentation to small claims court and file a suit for the amount due plus the cost of the suit.

This is an alternative to hiring a collection agency and preferable to writing off the payment as uncollectible.

Being aware of the legal issues other teachers have faced can help protect us against experiencing similar legal dilemmas. Although most of us will never face a lawsuit connected with our studios, we all must protect ourselves against that possibility in this increasingly litigious world. ■