

**Some Ethical Questions For Teachers  
Arising From Inter-School Competition**

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Paper presented at the Conference of the Australian Association for Research in Education  
and the New Zealand Association for Research in Education

Melbourne

29 November – 2 December, 1999

## Abstract

The development of a system of self-managing schools in New Zealand has encouraged competition between schools for students and resources. It is now possible for schools to enrol students from the neighbourhoods of other schools which tends to yield increased resources and improve the educational opportunities for their students at the expense of students in other schools. This raises ethical questions for teachers who work in schools that pursue such initiatives, especially if they help formulate or implement these policies. Are the ethical obligations of teachers only to the pupils of their own schools or do they also have wider ethical responsibilities towards the broader community and the teaching profession as a whole? The issue is explored by reviewing the professional obligations of teachers and considering whether the relationship between teacher and student is properly a contract or a covenant. It is argued that although a *non-tuist* stance may be appropriate in economic negotiations it is inappropriate for members of a helping profession. Teachers have ethical responsibilities beyond those to the pupils of their schools.

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The changes to the New Zealand education system that began in 1990 with the *Tomorrow's Schools* reforms (Lange, 1989), took place in a political climate of free-market thought that encourages competition between and within schools in the belief that it will assure the quality of services to clients and lead to improvements. It is argued that competition between schools will produce improvements in educational standards by allowing discerning parents to move their children from schools with lower standards of attainment to those with higher standards, with a resulting transfer of funding. As a result, the approaches of schools judged to be successful by the families of potential students are expected to increasingly dominate the system and as Thrupp (1999: 4) points out, the burgeoning literature on 'school effectiveness' and 'school improvement' suggests not only that there are feasible ways to improve all classrooms, schools and school systems, but also that all schools can be equally successful. On the other hand, researchers studying the effects of the *Tomorrow's Schools* regime have questioned the effects of opening compulsory education up to market forces, arguing that it is not producing the promised outcomes (Lauder, Hughes & Watson, 1999). They argue that parents do not come to the market as equals, that competition tends to polarise schools on social class and ethnic lines and that the impact on schools tends not to enhance the educational achievement of students in lower SES schools. In other words, there is still considerable debate about the educational benefits of inter-school competition that is now a feature of compulsory education in New Zealand.

This paper will examine some ethical implications for teachers arising from inter-school competition. I will first discuss some competitive practices and their consequences and then consider a specific case to identify and explore the ethical implications. Finally, I will comment on the complexity of ethical decision-making required, the changing nature of the relationship between teachers and their clients and the professional conflicts faced by teachers who are also trustees.

## Background

Before 1990, New Zealand government-funded primary and secondary schools, that provide 96% of school places during the years of compulsory education, were managed for the government by the Department of Education via regional education boards. Each school is now self-managing, regardless of its size, and is governed by a locally elected board of trustees, although the independence of school boards is severely constrained by the government charter under which boards of trustees are constituted. The teachers are employed by their school's board of trustees rather than the government that employed them

prior to 1990, and their principal is the chief executive officer who is responsible to the board of trustees for the management of the school. The principal is automatically a trustee, together with one other elected member of staff. As the employers of the staff, the boards of trustees also assume responsibility for the appraisal of the performance of the principal and the teachers.

Schools are resourced on the basis of their enrolments, but the relative independence of individual schools means that it is possible for them to set out to attract students from the districts of other schools, many of which were previously subjected to zoning restrictions, in order to increase their resources. Changes to the financial arrangements mean that schools receive entitlements for their operations, based on roll numbers so that funding tends to follow students who change schools, and the schools budget for and purchase their own goods and services. They are also free to charge school fees to supplement their government grants, although the payments must be regarded as 'voluntary donations'. At the moment, some schools (approximately 40% nationally) have elected to be bulk-funded and manage the funding of their teachers' salaries, an arrangement that is encouraged by the government with the provision of additional special entitlements.

### **Inter-School Competition**

When one school attracts students from another, one outcome is that the resources available to the other school are reduced and it is not hard to see how the quality of the education offered by the second school is likely to be negatively affected if a large number of students is involved. This is not just a matter of financial or material resources as there is considerable evidence in New Zealand that the students attracted to other schools tend to be higher achieving students from more affluent and upwardly mobile families seeking to achieve social positional advantage by attending a 'better' school. The trend is consistent with Marginson's observation that high SES schooling may be regarded as a 'positional good' that yields relative advantage in the competition for jobs, income, social standing and prestige (Marginson, 1997, cited in Thrupp, 1999: 138). Interviews with Hamilton school principals suggest that it is not unusual for schools to increase their enrolments by targeting more affluent and upwardly mobile families. The principal of a highly reputed Decile 10 intermediate school explained that his school attracted enrolments from all over the city via publicity material left in letterboxes. However, it later transpired in interviews with other principals that the areas where the material was delivered appeared to have been limited to more affluent suburbs, while closer, less affluent areas, were ignored. Similarly, the principal of a Decile 1 contributing school, (referred to throughout the paper as Lowdon School) that had recently received an impressive ERO report attesting to its effectiveness, told how another school with a higher SES rating, that offers programmes similar to those available at his school, runs buses through his school's area to pick up and return students. He indicated that the families who took advantage of the transport tend to be more stable, affluent and upwardly mobile. The movement had a discernible effect upon his school. The migration was not the 'white flight' reported elsewhere in the country (Corbett, 1994), because both Maori and Pakeha students were involved. However, a further interview in 1999 indicated that the proportions of Maori and Pacific Islander families attending the school have increased and there has been a recent influx of refugee Somali families. Anecdotal evidence, together with research from the Smithfield project (Thrupp, 1999) suggests that the situation of this low SES school is not unusual, either locally or elsewhere in New Zealand.

The drift of students to schools that are popularly regarded as socially more desirable, and more effective, is far from new in New Zealand. School zones, that existed for many schools prior to 1990, were established to regulate enrolments and avoid overcrowding. Nevertheless, determined and well-informed parents frequently found ways around the restrictions, especially at the secondary school level, even if the means used were not

always officially countenanced. The *Tomorrow's Schools* reforms changed that by making it acceptable not only for schools to freely accept the enrolment of any student, but also to set out to recruit students from the localities of other schools. As a result, many schools have begun to attend to what is now known as image management in order to become more popularly attractive to potential students and retain and possibly enhance their enrolments.

There is evidence that the socio-economic mix of students in a school has a profound effect upon the quality of the education available in that school (Thrupp, 1995, 1998, 1999; Lauder *et al.*, 1999). Thrupp argues convincingly that when significant numbers of students from more affluent, stable and upwardly mobile families are attracted away from schools, especially those in poorer areas, the schools are often left to contend with a social mix of students, and an unstable roll that make effective education increasingly difficult. The predicament is often exacerbated by a high incidence of social problems in the remaining school population, the transient nature of their populations (Wylie, 1999) and frequently a comparatively high staff turnover (Field, 1996; Harold, Hawksworth, Mansell & Thrupp, 1999). Thus, it may be argued that the effects of recruiting students from other areas, particularly lower SES suburbs, is likely to have the effect of reducing the educational opportunities for those students who remain, although that effect may not be intended. However, it is not clear that this is always recognised by teachers who frequently appear to accept the school improvement and school effectiveness arguments that any school can make a difference if appropriate strategies are adopted.

### **An Ethical Problem**

It is my contention that when one school targets the neighbourhood of another to enhance its resources and improve the educational opportunities for its students, the ethical position of its teachers is tested, especially those who participate in the decision-making as school trustees. Consider this fictional situation:

Hoha school, where you are a senior teacher, has four classes. It is a sound, run-of-the-mill country school on the outskirts of the city. The population is stable and, since the subdivision of a number of farms into ten acre lifestyle blocks, has been supplemented by the arrival of a number of upper middle class families with a fair bit of business know-how and considerable educational ambition for their children.

When *Tomorrow's Schools* was implemented, some parents immediately saw how Hoha School might take advantage of the abolition of school zoning in order to increase its size and educational provisions. They argued that increasing the size of the school would get it to a level where it might qualify for a non-teaching principal, and that greater income would allow it to develop better specialist facilities than existed at the time. In that way, it could better cater for the children of the present users. They pointed out that a few parents in the district were already taking their children to a town school with specialist music teaching that your school cannot match.

Your board of trustees, on which you are the staff representative, wants to run a bus from town to collect children whose parents would like them to attend your school. They believe that they can siphon off a substantial number of families from Waiora, the nearest suburb which includes a large section of state housing as well as some more up-market real estate. It is known that some of the more affluent families in that area would be interested in sending their children to a school with an image like yours even if they have to pay the costs of the 5 kilometre journey.

You were taken by surprise when the matter was first proposed and you remained pretty quiet because you were unsure of where your loyalties should lie. On one hand, like your colleagues, you wish to be loyal to Hoha School and the children you teach, but on the other hand, it is clear that the effects upon Waiora School are likely to be great. Its roll is at a critical point. Staff from there have told you that a significant down-turn will require the principal to teach a class and they fear that the families most likely to move will be those they can least afford to lose. In short, the planned move is likely to spell disaster for their school and significantly disadvantage the children who continue to attend it.

This scenario illustrates a predicament faced by teachers, especially the principal and the staff representative on the board of trustees, if their school chooses to compete for students from the neighbourhoods of other schools. As members of the school staff they have clear obligations to the students of their school. But are those students (and their parents) the *only* parties to whom they have professional obligations? Have they any professional responsibilities towards the students of the other school or the education system as a whole? Or are they simply the 'hired guns' of their own board of trustees, and responsible to that board alone?

The questions are especially relevant at this time because the responsibilities of teachers to their immediate clients and their employers are being spelled out in increasing detail in collective and individual employment contracts, statements of expected professional standards and more prescriptive and detailed curriculum documents that are referred to in the other documents. These contracts then become the basis for performance review by their employer boards of trustees. At the same time, as Rishworth noted recently, there is a trend, at a time of growing "rights consciousness" in New Zealand for problems that arise in schools to be conceived in legal terms (Rishworth, 1999) and to lead to the development of a new phenomenon that Rishworth refers to as 'education law'.

In order to explore the problem of competition, I will consider three questions about the issues facing the teachers of Hoha School. (1) Is the teacher obliged to take account of the interests of the children at Waiora School? (2) Is she obliged to speak out on the matter? (3) To what extent do these obligations apply in all cases where schools compete for students?

### **Does the teacher at Hoha School have an obligation to the children of the other school?**

It might be argued that the teachers at Hoha School have no obligation to the pupils of Waiora School, who are properly the responsibilities of their own teachers and trustees. Such a view would enjoin them to attend only to the good of the pupils of their school. It is true that the *first* obligation of teachers should be to those they teach. However, the professional codes of teachers, like those of other helping professions, espouse values such as client autonomy, justice, beneficence, and the avoidance of maleficence (Lovett, 1997:3) and as May points out, an important virtue also expected of professionals is *public-spiritedness* (May, 1980). If a teacher is committed to the core values listed, and is also public-spirited, then he or she will show commitment to the general good, as well as to the good of his or her particular clients. In the process, account will be taken of the well-being of people in the community beyond his or her particular school, at least to ensure, so far as possible, that their autonomy is respected, that they are justly treated, and that they are not harmed. Rawls (1975) takes the matter further, suggesting that distributive justice should be weighted towards the least advantaged and the most vulnerable. Thus, it is my contention that teachers have a *subsidiary* obligation, beyond that to their pupils, on grounds of social justice, to help ensure that the pupils of other schools affected by their decisions get a fair

go. The injunction to consider their interests becomes stronger if they are disadvantaged, at least by avoiding doing them harm by creating obstacles to their educational opportunities.

What the teachers consider to be their responsibilities to the Waiora School pupils will depend greatly upon their knowledge and beliefs about the effects of inter-school competition. It has already been noted that the arguments advanced by researchers who question the effects of the marketisation of education are not universally accepted, despite the evidence presented. Some teachers appear to be persuaded more by the school improvement and school effectiveness arguments that all schools can be equally successful if the appropriate strategies are adopted. If that is their view, then they are likely to feel that the responsibility for the Waiora School students lies mainly with the teachers of that school.

On the other hand, if the evidence of the critics of marketisation is accepted then the proposal of the Hoha School trustees may be interpreted as tacitly setting out to obtain advantages for the children of their school at the expense of potential harm to those students of Waiora School who do not change schools, and may not have the opportunity to do so. The consequences of recruiting a significant number of students from Waiora school are likely to be beneficent for the pupils of Hoha school who stand to enjoy the educational advantages of enhanced resources. But, at the same time, the consequences may be judged potentially maleficent in their effects upon the students of Waiora school that stands to lose resources, staff and most importantly, the social mix that has been demonstrated to be educationally desirable. It is also possible that a resulting decline in the reputation of Waiora School may help produce increased staff turnover. Recognising these consequences, the teacher must decide whether the disadvantages to the pupils of Waiora School (and its community) are justified by the advantages to the Hoha school pupils and their community. If it is accepted that educational success enhances the life chances of individuals, then a question of social justice lies at the heart of the problem. In the longer-term, reductions in the educational success, and consequently the life chances of the pupils of Waiora School, are also likely to result in diminishing their autonomy as individuals.

Moreover, Rawls' argument that distributive justice should be weighted towards the least advantaged and the most vulnerable suggests that due regard should be paid to the disadvantaged status of the students of Waiora school. If the children of the second school are as vulnerable as they appear to be, then it is possible that the likely consequences of Hoha School instituting the bus run may be considered unreasonable. In such a case, if a teacher professes a commitment to values such as justice and the promotion of learner autonomy, then integrity requires that account be taken of broad matters of public policy and justice, going beyond duties to specific clients.

Thus, in answer to the question posed, I conclude that although the teachers have a primary obligation to their students and those of their school, they also have a subsidiary obligation to weigh the consequences of competitive practices by their school that affect the students of other schools, especially if those students are disadvantaged and vulnerable. Their conclusion is likely to depend greatly upon their knowledge and beliefs about the effects of inter-school competition. If they accept the school development and school improvement claims, they may accept that responsibility for the effects upon the students of the other school lies with its teachers. However, if they accept the evidence of researchers who oppose marketisation of schooling, they are more likely to oppose the proposal.

### **Are the teachers obliged to speak out on the matter?**

The board of trustees is a forum for the debate of general public interests in the education of the Hoha school community. There is a useful distinction drawn between professional decision-making in education that is essentially about *how* the school will go about

educating, that properly falls within the authority of professional teachers, who have special knowledge about and skill in teaching, and decision-making about the wider aims and context of the work of schools, that is not the exclusive concern of the profession (Covaleskie & Howley, 1994; Hoyle, 1981; Hirst, 1981). Broader questions about the aims of education, what resources should be provided and so on, are matters for debate by the wider community including teachers. Covaleskie and Howley (1994) refer to that public forum of education as the *commons* and it is my contention that when teachers participate in the affairs of their school board of trustees, they exercise their potential to inform that debate as expert members of the commons.

Some claim that they have an obligation to do so. For example, Downie identifies a set of ideal characteristics of professions in general, amongst which he suggests that the duties of professionals go beyond their duties to specific clients. They have, he says, a "social function of speaking out on broad matters of public policy and justice" (Downie, 1990: 154). This suggests to me that the teacher in question should speak out, at least in the forum of the board of trustees, if she is to maintain her integrity that, in May's words, "does not permit a split between word and deed" (May, 1980: 409).

While teachers may be required to implement their school's policies, they also have a duty to draw upon their expert knowledge and comment to the other trustees, and possibly the wider community that the trustees represent, on matters of policy affecting both the good of their pupils and that of the wider community. Hoyle (1975) distinguishes between *restricted* and *extended professionalism* in teachers, describing those who are skilled classroom practitioners, but limit their attention to their students and their own classroom as displaying what he called 'restricted professionalism'. He contrasts the behaviour of such teachers with the more collegial and collaborative professional behaviour of others who engage more fully in school decision making, and are more active in professional activities beyond their school. When Downie suggests that the duties of fully professional teachers go beyond their duties to specific clients, he appears to imply that they will display characteristics of extended professionalism as envisioned by Hoyle, and that in the case under consideration, they will be prepared to speak out on matters they consider not to be in the best interests of education generally or that may be harmful to the education of vulnerable groups.

Thus, faced with the circumstances of the problem at Hoha School, I conclude that the teacher is obliged to speak out in order to maintain her integrity.

### **Do these obligations apply in all cases where schools compete for students?**

Thus far I have argued that the Hoha School teacher trustee should take account of the interests of the pupils who remain at Waiora School and to consider the full range of relevant factors when a decision is made about the proposed bus run. My analysis suggests that if the research evidence about the effects of marketisation outlined earlier is accepted, both she and her principal appear to be ethically obliged to oppose the proposal. I have added that as board members with professional insight into education, they are also obliged to speak up on the matter at board meetings and possibly in the wider community.

To what extent do these obligations apply in *all* cases where schools compete for students? Are teachers *always* professionally obliged to take account of the interests of students in other schools affected by decisions made to obtain advantages for the pupils of their school? Must they *necessarily* oppose all competitive practices between schools? One factor to be considered is the extent to which the competing schools offer similar or alternative programmes. The case considered involved two schools offering similar programmes. Let us now consider the extent to which the problem would have changed had Hoha School been a

## kura kaupapa Maori offering an alternative form of schooling to the English language mainstream programme at Waiora School?

If the programmes of the competing schools are distinctively different, it may be argued that the nature of the competition changes when the two competing schools offer alternative programmes. That is because the programmes become complementary when families are given a choice between two distinctively different programmes (in this case a choice for their children to be taught in one or the other of the two official languages of New Zealand). The situation is not very different from the choice provided by a large school that enrolls students in both a mainstream English medium programme and an immersion Maori programme taught by separate units within the same school. The interview with the principal of Lowdon School, discussed earlier, revealed that its nearest neighbouring school was bilingual in character. The principal observed that together the two schools offered important choices for the families of the two school communities. Children from his school neighbourhood travel to the other to take advantage of its bilingual programme and students from the other district travel to Lowdon School for access to its mainstream English medium programme. In a sense, the complementary nature of the two programmes means that the schools share a double-sized district and each appears comfortable about the arrangement. The principal's attitude also indicates that he was not opposed to all forms of competition.

The availability of alternative programmes has the potential to enhance the autonomy of families in both school districts, and providing the quality of the education in each school is good, each programme may be regarded as potentially beneficent for those families whose children attend it. In neither case is there any suggestion that the beneficent outcomes are likely to be achieved at the expense of maleficent effects upon the children of the other school. In other words, when the two competing programmes are complementary in nature, some of the ethical problems inherent in the Hoha School case disappear, and providing those choosing the programme for their children are fully informed, the arrangement appears generally fair to the families concerned.

It was also clear that the relationship between the schools with complementary programmes had been discussed by the boards of trustees of the two schools and an ongoing professional dialogue continued between the principals. While the two principals seemed to be out to obtain advantages for their respective schools, the relationship between them was based on agreements and mutual respect. This contrasts with the same school's relationship with the competitor school located some distance away, whose bus run was seen as making a kind of 'corporate raid' on its district without any discussion or agreement, and certainly without offering any benefits in return. In many ways, its actions were seen as acts of hostility towards another competitor school whose circumstances made a counter-strike almost impossible. While the openly-aggressive nature of the raid was offensive, it would be incorrect to imply that the action would have been any more acceptable had it been carried out in a nicer way.

Had Hoha School been a kura kaupapa Maori, these observations suggest that the teacher trustee would still be obliged to consider the interests of the children at Waiora School. The reasons for considering their interests do not change. However, if the two programmes are complementary in nature and the arrangement yields benefits for each school, the teacher would not have the same grounds to object. Indeed, she might endorse the proposal and argue for collaboration and other measures to ensure that families choosing between the programmes are fully informed about the choices available to them.

These two instances of inter-school competition suggest that some competition is ethically acceptable and some is not, and the key aspects appear to centre upon the extent to which the competitor programme is in fact different, as well as the proximity of the competing

schools. While the cases examined appear relatively clear cut, others are less so because the degree of difference between competing programmes may vary considerably. Indeed, it is a common technique of competitive commercial practice to lead potential buyers to believe that your product is superior to the other, when the differences may be more apparent than real. Frequently, the main differences are to be found in the packaging and the advertising hyperbole. This also appears to be happening with our schools. There is an intermediate school in Hamilton, for example, that in the early 1990s began to market itself as "The caring intermediate", apparently implying that the other intermediate schools were not caring. Since then, it has extended this to "The professional and caring intermediate". I do not imply that this intermediate school is aggressively targeting the students in the neighbourhoods of other schools, but if it was, then while it might justify its actions on the grounds that it offers an alternative school atmosphere, any decision by a teacher trustee about supporting it would require a judgement about whether the nature and the degree of difference was sufficient to call it a true alternative and whether there was any potential benefit for the competitor school in the proposal. In the end, if all the advantages accrue to the students of one school, at the expense of potential harm to the students of the other, then it is questionable whether teachers should support the endeavour.

This case analysis suggests that inter-school competition poses an ethical problem for teachers. It has been argued that while the primary obligation of teachers faced with competitive practices between schools must be to their pupils and the other pupils of their school, they are also professionally obliged to consider the interests of students of the other school or schools affected. It has also been argued that they are professionally obliged to speak out on the matter in order to help inform the public debate. However, it is equally evident that whether or not they should support competitive practices depends on the circumstances of the case that require a careful examination of its merits.

Particular attention must be paid to the extent to which advantage is being obtained for the students of one school at the expense of potential harm to those who remain at the other, especially if economic or other factors outside their control make them vulnerable. For this reason, the extent to which the competing programmes are genuinely different and whether the alternatives offered are likely to enhance the autonomy of those affected generally, are matters for serious consideration.

### **An Alternative Perspective: Contract or Covenant?**

Inter-school competition also raises questions about the nature of the relationship between professional teachers and their clients (their students and the students' families). One feature of the free-market ideology on which the self-management of schools is based is the emphasis placed upon contractual relationships. I have already noted that competition between schools pre-supposes that parents will choose schools that are best expected to fulfil the interests of their children. Thus, if the chosen school does not fulfil their expectations, they may choose to move to another (and the resources they generate will move with them). It might be argued that schools have always had broad contractual relationships with their client families, at least in the sense that the schools provide a public service that is communally funded, and they were generally accountable to the community for the work of their teachers.

However, in the wake of the relatively recent explosion of free-market and post-Fordist thinking, and its application to education noted by Bottery and Wright (1997: 8-9), the broad social contracts between teachers and schools and their communities appear to have become narrower, more detailed and directly between schools and the students' families. Before the *Tomorrow's Schools* reforms, the very broad social contract of education was between families and the government as the provider of education. Today, the contract is

between families and their particular school's board of trustees and the evidence suggests that it is being interpreted increasingly as an explicit commercial contract.

May comments on the difference between a commercial contract and a covenant (May, 1975), pointing out that medical practitioners in the United States of America are faced with a similar predicament. His analysis suggests that

'... in spirit, contract and covenant are quite different. Contracts are external: covenants are internal to the parties involved. Contracts are signed to be expediently discharged. Covenants have a gratuitous, growing edge to them that spring from ontological change and are directed to the upbuilding of relationships.' (May, 1975: 93).

The idea of the medical professional as contractor attracts May because the relationship breaks with a paternalistic relationship based on blind trust, and requires greater respect for the dignity and autonomy of the client. The rights, duties, conditions and qualifications limiting the agreement may be spelled out so that provision for legal enforcement of the terms of the contract offers both parties protection and recourse under the law. However, May notes that a contract of this nature pre-supposes that people are primarily governed by self-interest and adds that it would be unfortunate if professional ethics were reduced to commercial contracts because the notion of contract suppresses the element of gift in human relationship. He is at pains to emphasise the necessary donative element by both parties who must contribute in order to make an acceptable professional relationship work. In other words, he views a desirable professional relationship as collaborative, rather than competitive in nature, a stance that is clearly at odds with the commercial supposition that both parties will be governed by self-interest and are effectively in competition with one another. In his view, commercial contractualism easily falls into the error of minimalism because the pursuit of self-interest alone may lead each party to get away with as little as possible.

Clearly, self-interest poses a danger to professionalism in a competitive environment. Downie draws attention to Wicksteed's (1933) distinction between *tuist* and *non-tuist* attitudes in the provision of services. Wicksteed challenged Adam Smith's widely accepted assertion that business transactions are motivated simply by self-interest. He coined the term *non-tuist* to describe a commercial relationship where an agent may conduct transactions taking account of the good of others such as family members, shareholders and even groups in the wider community for whom they feel responsible. But, the agent still necessarily excludes from consideration the interests of the other party to the transaction. This attitude of *non-tuism* is regarded as fundamental to the concept of a market and appears to be the basis of the marketplace injunction '*caveat emptor*' (Let the buyer beware.) because, as May observed, in a commercial relationship each agent attends only to the interests of those he or she represents. Because of the nature of this relationship, Wicksteed observed that the market also requires safeguards for the interests of the client against corruption. These are to be found in the existing system of rights and in contracts defining the rights and duties of the parties that create legal sanctions. In other words, what the trader in goods and services can get away with is constrained by legal bonds that provide the only way for an aggrieved party to obtain retribution.

By contrast, a *tuist* attitude occurs in an arrangement where one party is employed to promote the interests of another. There is an assumption of mutual goodwill and cooperation between the parties in a relationship that is fundamentally different from the *non-tuist* relationships already discussed. Thus, Downie (1990) concluded that "the professional's attitude is or ought to be one of 'tuism' – in other words, he [*sic*] is concerned, through beneficence coupled with integrity, to promote the interests of his clients, although he too

ought to be restrained by ethical and legal bonds" (Downie, 1990: 152-3). In other words, a tuist attitude is necessary for the development of a truly fiduciary relationship of trusteeship that the client can trust, a relationship that is a definitive of a professional, as opposed to a market relationship.

Thus, the contractualist approach to professional behaviour appears to be essentially non-tuist in nature and the covenant based approach is essentially tuist. May (1988/1980) concluded that the most appropriate relationship between physician and patient will be based upon a covenant rather than a commercial contract. It is my view that the same argument may be applied to the ideal relationship between professional teachers and their student clients and their families for precisely the same reasons. Thus, the first responsibility of teachers ought to be the good of their students, and the ideal professional relationship between teachers and their client families will be conceived as a covenant rather than a narrow contract.

### **Teachers as Trustees**

This highlights a potential source of conflict for teachers in market-driven education. Professional educators usually aspire to covenant agreements with their clients that are founded on tuist attitudes and require special kinds of relationship based on trust. Boards of trustees, on the other hand, are encouraged and even required to adopt non-tuist attitudes that do not take account of the interests of competitors and so can easily cultivate attitudes of self-interest and distrust. Under these circumstances, the only safeguard to the interests of each party is the law. Thus, the teachers who are school trustees are often impelled to be tuist in their professional relationships and non-tuist as trustees. The conflict of interests confronting the teacher at Hoha School illustrates this.

It is easy for the attitudes from one form of relationship to leach into the other, especially when one party ceases to attend to what May called the donative aspect of the relationship so that it ceases to be reciprocal and the relationship ceases to be based upon mutual trust. Recently, Codd (1999) drew attention to what he referred to as the "culture of distrust" that has been cultivated by the emphasis on economic rationalism in New Zealand, noting that "trust breeds more trust and conversely distrust breeds more and more distrust, producing virtuous or vicious cycles" (p.50). It is precisely such a vicious cycle that places at risk the professional covenant relationship in education through the cultivation of non-tuist attitudes and consequently by increasingly depending upon what Codd referred to as *external* rather than *internal* professional accountability (Codd, 99:51). Rishworth's observation, noted earlier, that education in New Zealand is becoming increasingly legalised (Rishworth, 1999) may well be further evidence of that happening.

### **Conclusion.**

The work of New Zealand teachers has been traditionally based upon a communitarian ethic focused upon notions of obligation, duty, reciprocity and solidarity with less attention paid to individual aspiration and autonomy. The essence of communitarianism as Manning observes, lies in the value of the community and the individual's obligation to it (Manning, 1999). Many teachers aspire to membership of a professional community of practice in which practitioners freely collaborate with one another in the interests of learners, regardless of school boundaries. They also regard themselves as contributing to the educational good of all learners in the school system, including those in other schools.

The opening up of compulsory schooling to market forces, by allowing and even encouraging inter-school competition for pupils and the resources they bring with them, challenges the communitarian ethic by implying that the responsibility of teachers is simply

to the pupils of their school that is in competition with other schools. It questions the nature of fundamental teacher-client relationships by emphasising the contractual nature of the obligations of teachers in the style of explicit commercial contracts rather than covenants. The difference between the two is important because a contract is a non-tuist competitive relationship that take no account of the good of the other party to the contract whereas a covenant is tuist in nature, being directed towards the good of the other party. In other words, the marketisation of education questions what it means for a teacher to be professional. Some, such as Codd (1999) appear to see it as a step towards the de-professionalisation of teaching.

In this paper, I have argued that teachers have professional obligations to learners beyond those of their school, at least to minimise the harm that is done to the students of other schools as a consequence of competitive practices. This means that they are obliged to take account of the interests of all the learners affected and they are professionally obliged to speak out in order to inform the public debate about such matters. That is not to argue that all competitive practices are necessarily undesirable. Some appear to have clear advantages and should be encouraged. That is why there is a need to recognise that every case needs to be examined on its merits and why there is a pressing need for wider debate on the topic.

### **Acknowledgement**

I would like to thank my colleagues Margaret Carr, Rosemary De Luca, Clive McGee and Martin Thrupp who read and commented on an earlier draft of this paper and made a number of suggestions that improved the argument .