

THE FIFTH ANNUAL SCHOOLS LAW AND REGULATION CONFERENCE

A TWO-DAY ONLINE CONFERENCE
ORGANISED BY TELEVISION EDUCATION
NETWORK PTY LTD

THURSDAY 30 APRIL & FRIDAY 1 MAY 2020

All on Board: Best Practice School Boards

How Watertight is your School Enrolment Contract?

Strategies for Effective Complaint Handling in Schools

Allowable Disclosures and Exemptions under the Privacy Act

Reasonable Adjustments for Students with a Disability

Student Gender and Diversity: Care and Compliance in a Shifting Landscape

Families and How to Survive Them: A Family Law Guide for Schools

Staff Employment and Religious Freedoms: A New Era?

Duty of Care: Managing Staff Wellbeing Issues

Sorry to See You Go: Terminating Long Standing Staff

Conducting Child Safety Investigations in Schools

Sexting: Approaches for Schools

FEEDBACK FROM LAST YEAR'S CONFERENCE:

"Great content. Great delivery. Very impressed with the program content and delivery."

"Speakers were very knowledgeable and made the content understandable & relateable. Exceeded my expectations."

"All sessions purposeful, appropriate, well prepared and well presented."

"Informative, interactive and beneficial."



The professional development specialists

DAY 1 THURSDAY 30 APRIL 2020

**CHAIR DAY 1: PHILIP BATTYE,
PARTNER, HWL EBSWORTH
LAWYERS, MELBOURNE**

**MORNING THEME: GOVERNANCE AND
REGULATION CHALLENGES**

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: All on Board: Best Practice School Boards

School Boards are governing in a complex and competitive environment and are tasked with understanding legal, regulatory, financial and technical issues facing the school. This session will highlight the important characteristics of an effective Board, and some current issues and developments Boards need to be aware of to enable them to provide effective governance and leadership, including:

- Board composition and selection: the importance of skill set and diversity
- Getting the right balance: parent members and independent members
- School Board director duties: lessons from corporations law
- The governance framework: Does the Constitution, rules and policies meet the needs of the school of today?
Planning for review and revision
- Assessing and auditing compliance frameworks

Speaker: Elizabeth Jameson, Executive Chair, Board Matters, Brisbane

9.55 - 10.05am Comments and Questions

10.05 - 10.50am

Session 2: How Watertight is your School Enrolment Contract?

The importance of the enrolment contract to the school/parent relationship cannot be underestimated. As a legally binding document, it needs to be reliable and thorough to cover all the bases as well as stand up under scrutiny if challenged. In this session we will health check the essential and important terms of enrolment contracts, covering:

- Parties to the contract, and the importance of binding more than one parent
- Incorporation of the school's policies and procedures
- Initial and ongoing disclosure by parents of:
 - family law court orders or significant family disruptions
 - physical, learning, health and other issues or disabilities
 - other circumstances affecting the child/family/school relationship
- Fee payment obligations and school options for recovery
- Termination of enrolment, in both specific and discretionary circumstances
- Dispute resolution processes: what are the options?
- Updating the contract: unilateral and negotiated amendments
- Does the Unfair Contracts regime apply to enrolment contracts?
- The enrolment contract as a risk management tool

Speaker: Fiona Manderson, Special Counsel, Corney & Lind Lawyers, Brisbane

10.50 - 11.00am Comments and Questions

11.00 - 11.25am Morning break

DAY 1 THURSDAY 30 APRIL 2020

11.25am - 12.10pm

Session 3: He Said, She Said: Strategies for Effective Complaint Handling in Schools

There are many reasons why a school should be interested in managing complaints in the best possible way, ranging from legal obligation to protection of reputation. Unfortunately, in many cases the policies and processes designed to assist in complaint handling are either insufficient or not followed. This session will provide advice on a best practice complaint management framework for your school, and practical tips for keeping the process focussed and relevant, including:

- Defining complaint handling objectives:
 - Compliance
 - Relationship management
 - Risk management
 - Responsiveness
 - Resolution
- Essential components of a complaints handling framework
- Developing a process and following it
- Resource allocation: the cost-benefit analysis
- Staff training as a critical component of complaint handling
- The role of procedural fairness and navigating the complaint investigation process
- Policy guides and resources, benchmarks for good practice

Speaker: Amanda Ryding, Partner, Colin Biggers & Paisley, Sydney

12.10 - 12.20pm Comments and Questions

12.20 - 1.05pm

Session 4: Need to Know? Allowable Disclosures and Exemptions under the Privacy Act

Schools have important legal obligations regarding their collection and use of personal information. When it comes to caring for a student in a manner consistent with a school's duty of care, issues arise as to what information can and can't be disclosed. This session takes a deep dive into the legislation to provide guidance on when it is permissible to disclose personal information about a student, including:

- Key elements of the Privacy Act:
 - What is personal information?
 - What is sensitive information?
 - What information can be collected?
 - Relevance of primary and secondary purposes
 - Understanding access, use and disclosure
- In what circumstances is the disclosure of personal information allowable?
- Disclosure with consent - can students have a say in the disclosure of their information?
- Disclosure without consent: what are the exemptions?
- Disclosure in a divided family situation - strategies for managing information requests
- Internal and external investigations - what information can be provided?
- The application of the Privacy Policy, collections notices, enrolment contract and other legislation in handling information disclosure
- Guidance and resources from the OAIC

Speaker: Helaine Leggat, Managing Partner, ICTLC Australia, Melbourne

1.05 - 1.15pm Comments and Questions

1.20 - 2.15pm Lunch break

DAY 1 THURSDAY 30 APRIL 2020

AFTERNOON THEME: STUDENT MANAGEMENT, WELFARE AND RIGHTS

2.15 - 3.00pm

Session 5: Reasonable Adjustments for Students with a Disability

The requirement to accommodate children with special needs can be a challenge for schools. Where special needs amount to a disability, the law requires education providers to make reasonable adjustments. This session will look at the legislative requirements for schools and some cases in this area which provide guidance on how far the obligation can reach, including:

- The legislative framework for disability discrimination - how it impacts students with a disability and a school's obligations
- What constitutes a "disability"?
- The difference between direct and indirect discrimination in a disability context
- The obligation to make "reasonable adjustments" explained
- When does the defence of "unjustifiable hardship" apply? How is it determined?
- Recent and relevant cases on reasonable adjustment
- The role of the NDIS in funding reasonable adjustments
- The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability - the terms of reference and potential impact on the education sector

Speaker: Annie Smeaton, Partner, Cooper Grace Ward, Brisbane

3.00 - 3.10pm Comments and Questions

3.10 - 3.55pm

Session 6: Student Gender and Diversity: Care and Compliance in a Shifting Landscape

Gender identity and diversity can potentially be the subject of discriminatory and unfair treatment. The presence of students who identify as LGBTI requires sensitive handling to ensure compliance with legislation and with the school's duty of care. With a raft of religious freedom reforms on the horizon, it's never been more important for schools to understand the new legislative framework and how they can best meet their duty of care to provide a supportive environment. It covers:

- Definitions of gender identity and transgender - medical and legal
- LGBTI and discrimination: what is the law?
- Exceptions to the law - religious schools: how has the position changed?
- How can a school ensure the fair and equitable treatment of LGBTI students?
- Developing policies and processes to manage:
 - Student support and welfare
 - Harassment, bullying and vilification
 - Communication within the school community
- A focus on practical issues - facilitating changes to accommodate and support LGBTI students on a day to day basis in the school community eg uniform, change rooms, boarding arrangements, preferred names

Speaker: Kristen Lopes, Partner, Colin Biggers & Paisley Lawyers, Sydney

3.55 - 4.05pm Comments and Questions

4.05 - 4.25pm Afternoon Break

DAY 1 THURSDAY 30 APRIL 2020

4.25 - 5.10pm

Session 7: Families and How to Survive Them: A Family Law Guide for Schools

With families coming in all shapes and sizes, and some of them in various stages of acrimony, schools need to be aware of the complexities and implement appropriate arrangements and strategies to minimise risks. This session will look at some of the issues of dealing with families, including parental and third-party rights, and what schools can do in practice to reduce the impact on the school community, including:

- Who is a parent? Blended families and “rights”
- Practical issues and risk management: communication, child access and collection
- Practical issues and risk management – access, handovers and IVOs
- Case study: when things get ugly in the school yard – how to deal with parents who turn up unannounced
- Understanding and complying with family court orders and subpoenas
- Case study: When a child doesn’t want to spend time with a parent

Speaker: Rebecca Dahl, Partner, Nicholes Family Lawyers, Melbourne

5.10 - 5.20pm Comments and Questions

DAY 2 FRIDAY 1 MAY 2020

**CHAIR DAY 2: DR LYNNE DONELEY,
EXECUTIVE OFFICER, ASSOCIATED
CHRISTIAN SCHOOLS, BRISBANE**

**MORNING THEME: PEOPLE AND
PERFORMANCE**

9.00 - 9.45am

Session 8: Staff Employment and Religious Freedoms: A New Era?

Religious freedoms have been given new protections with a suite of legislative reforms, but how will these impact on faith-based schools in terms of hiring, managing and firing staff? This session unpacks the new legislation and will give an insight into what schools can and can't do in relation to staff beliefs and associated activities, including:

- What is the legislation designed to achieve? A shield not a sword
- Who and what is caught by the legislation?
- Defining religious belief and activity
- Defences, exceptions and exemptions to the legislation - when will they apply?
- Can you discipline or terminate a staff member for views contrary to school beliefs and ethos? The Ballarat Christian College case
- Control of staff views inside and outside the school - how far can you go?
 - Using the employment contract and codes of conduct to manage employees
 - Case study - Israel Folau
- The findings of the ALRC report into exemptions for religious institutions
- Reviewing your organisational culture and policies for compliance

Speaker: Skye Rose, Principal, Moores, Hawthorn, Vic.

9.45 - 9.55am Comments and Questions

9.55 - 10.40am

Session 9: Staff Wellbeing in the Coronavirus Pandemic Environment

Teaching and associated roles are consistently associated with higher levels of work-related stress. The challenges of working in a school environment, which may be exacerbated by existing personal issues, can give rise to serious health concerns which may ultimately lead to absences, injury and possible legal action against the school. This session will look at how schools can take steps to meet their duty of care to prevent harm and improve the wellbeing of staff, including:

- The duty of care to employees and its application to the school environment
- Creating a supportive culture - policies and processes to monitor health and well-being and equip staff with relevant tools
- Are you aware of the issues in your school? Wellbeing surveys, health checks and other resources to proactively manage risks
- Mental health on the Board and staff room meeting agendas
- How can you support your teachers? Options for dealing with challenges such as:
 - Bullying of teachers by students and parents
 - Personal issues - relationship breakdowns, addictions, pre-existing health concerns
 - Differences with colleagues
- How effective is your employee assistance program?
- Heading off claims through early detection and management

*Speaker: Nick Duggal, Partner, Moray & Agnew
Lawyers, Melbourne*

10.40 - 10.50am Comments and Questions

10.50 - 11.10am Morning Break

DAY 2 FRIDAY 1 MAY 2020

11.10 - 11.55am

Session 10: Sorry to See You Go: Terminating Long Standing Staff

Long-standing staff members are often loved and valued members of the school community. Nevertheless, there may be circumstances which require an evaluation of the relationship and the consequential decision to move that staff member along. This session will examine the processes to follow to exit an employee with dignity and in accordance with the law, including:

- When can a long-standing employee be terminated?
- Understanding relevant contractual rights and award provisions
- Managing the risks of age discrimination
- Decision-making and associated processes - involving the Board
- Appropriate strategies for replacement, immediate and/or longer term
- Where an investigation is required:
 - Who will conduct it?
 - Suspension issues
 - Communication strategy
- Alternative dispute resolution options
- Dealing with the fall-out: the school community and stakeholders
- Case study: The elderly property manager

Speaker: Melissa Scadden, Senior Associate, Justitia, Melbourne

11.55am - 12.05pm Comments and Questions

12.05 - 1.05pm Lunch Break

AFTERNOON THEME: CHILD SAFETY

1.05 - 1.50pm

Session 11: Conducting Child Safety Investigations in Schools

The changing landscape of child protection in Australia has evolved significantly in a post-Royal Commission environment and has imposed a regime based on organisational and individual liability for preventing, responding to and reporting child abuse allegations. This session looks in-depth at how to best manage an investigation involving child safety, with a focus on the strict requirements imposed by the reportable conduct schemes. Topics covered will include:

- What to do once you receive an allegation
- Providing appropriate support to the involved parties
- What will the investigation cover?
- Appointing an investigator:
 - Independence
 - Skills
 - Conflicts of interest
 - Approach
- The key essentials of the investigation process
- Issues to be aware of in interviewing children
- Standard of proof: the Briginshaw test
- Findings and reporting
- Establishing a policy on reportable conduct obligations and processes
- Managing reputational fallout and communicating with stakeholders

Speaker: Ben Tallboys, Principal; Legal consultant to the Association of Heads of Independent Schools of Australia, Russell Kennedy Lawyers, Melbourne

1.50 - 2.00pm Comments and Questions

DAY 2 FRIDAY 1 MAY 2020

2.00 - 2.45pm

Session 12: Sexting: Approaches for Schools

Sexting, the sending and sharing of sexually explicit messages and photographs by social media, has become an increasingly worrying behaviour within schools. The serious and long-lasting consequences make this an area that needs proactive management. This session will provide guidance on legal issues arising from sexting and what schools can do to minimise the risks of this behaviour occurring, including:

- What behaviour is classified as sexting?
- The sexting statistics: a national alarm bell
- Sexting as a criminal offence:
 - Child pornography
 - Distribution of images of a person under 18
 - Defences
 - Penalties
 - Placement on child sex offender register
- Sexting as bullying and harassment
- Investigating an allegation of sexting - when should the police be called?
- Discharging a school's duty of care:
 - Staff and student education and awareness programs on responsible use of technology
 - Involving parents
 - Counselling and support to victims and associated persons
 - Codes of conduct and policies

Speaker: Alistair Macpherson, Managing Director, Comey & Lind Lawyers, Brisbane

2.45 - 2.55pm Comments and Questions

2.55pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the online conference, online access to the conference papers and recordings of all conference sessions will be provided after the event.

Conference Papers

TEN no longer provides printed copies of conference papers at its events. Access to the papers will be available online to all delegates in the lead-up to the conference (as the papers become available), during the conference and for 30 days after the conference. The papers will be available in .pdf format for easy download to your local computer or portable device.

CPD Units/Points

Lawyers (except WA): 7 CPD units (substantive law)

WA Lawyers: 6 CPD points (substantive law)

Online Details

The conference will be streamed to you online.

All delegates will receive a link and user details in the lead-up to the conference.

You can login from anywhere with internet access and attend the conference using your computer or portable device.

Delegates will be able to ask questions using the online question portal. Simply type in your question and submit and the speaker will receive it and answer it during the question time at the end of each session.

We have plenty of breaks throughout the 2 days so that you can stretch your legs, grab a refreshment and have some lunch.

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

Conference Terms

Program subject to change without notice. The information and views presented in the conference are not necessarily those of TEN, and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for conference cancellation or any other loss or liability is the refund of the registration fee paid.

