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REGISTRATION  
OPTIONS  
FACE TO FACE

# THE SEVENTH ANNUAL SCHOOLS LAW AND REGULATORY CONFERENCE

Schools and Families: A Delicate Balancing Act

When "No" is Not Enough: Reaching the Limits of Student Discipline

A Spotlight on Student Disability and Inclusivity

Accommodating Gender, Identity and Sexuality in Faith-based Schools

The Focus for School Boards in Challenging Times

Mind the Gap: What's Missing from Your Enrolment Contract?

A Guide to Privacy, Confidentiality and Data Management

Strategies for Effective Staff Performance Management

Where do the Professional Boundaries of Teachers Start and End?

Lining Up the Ducks in Staff Misconduct Allegations

Offsite and Third-Party Provider Risks in Student Management

Best Practice Complaints and Disputes Management for Schools

A Two-day Conference

**Thursday 12 & Friday 13 May 2022**

Crown Promenade, Melbourne



Leaders in online CPD for Lawyers & Accountants

# Day 1 - Thursday 12 May 2022

**CHAIR DAY 1: MURRAY BAIRD,  
PRINCIPAL, MURRAY BAIRD  
ADVISORY, MELBOURNE**

**MORNING THEME: STUDENTS AND  
FAMILIES**

**9.00 - 9.10am**

**Introduction and welcome**

**9.10 - 9.55am**

## **Session 1: Schools and Families: A Delicate Balancing Act**

Families are an integral part of the school community, but managing the expectations, relationship issues and concerns of parents can be a challenging process and one which requires walking a tightrope between individual wants and needs and what is best for the school. This session will examine some of the more common and difficult problems in dealing with parents and provides practical advice for management, including:

- Dealing with difficult parents:
  - Managing unreasonable expectations and complaints through solution-focussed policies and procedures
  - Practical and legal options for dealing with abusive, threatening or violent behaviour by parents
  - The defamation route for school/teacher reputational damage on social media – is it an option? Recent cases
  - Tips for incorporating parental behaviour, obligations and consequences for breach into enrolment contracts and school policies
- Dealing with family dynamics:
  - School obligations to comply with court orders and subpoenas

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

**9.55 - 10.05am Panel Comments and Questions**

**10.05 - 10.50am**

## **Session 2: When “No” is Not Enough: Reaching the Limits of Student Discipline**

Schools are increasingly having to deal with potentially serious disciplinary matters concerning their students, including bullying, physical assault and sexual violence. What can schools reasonably and legally do to in such circumstances to protect the school community? This session will provide a guide to behaviour management and potential solutions, including:

- The duty of care of a school to its staff, students and the wider community
- School policies:
  - What should be in a school discipline policy regarding student behaviour?
  - Can the policy extend to behaviour outside the school gates?
- Tips for instigating, conducting and participating in internal and external investigations
  - When to contact authorities including the police
  - Advice for school responses and co-operation when a student has been arrested or charged with a criminal offence
  - Legislative and regulatory obligations including UN Conventions, child protection standards and reporting obligations
- When can enrolment be terminated? Balancing the student's needs with the school community
- Managing the reputational fallout from student behaviour
- Proactive measures for student behavioural management and discipline

*Speaker: David Ford, Partner, Carroll & O’Dea Lawyers, Sydney*

**10.50 - 11.00am Panel Comments and Questions**

**11.00 - 11.25am Networking Break and Afternoon Tea**

# Day 1 - Thursday 12 May 2022

**11.25am - 12.10pm**

## **Session 3: A Spotlight on Student Disability and Inclusivity**

The legislative obligations to accommodate students with a disability can present challenges for schools. With a growing number of children presenting with a disability and a wide variety of needs requiring accommodation, schools need to keep abreast of both their own responsibilities and wider community developments. This session will provide a practical guide to schools' obligations, including:

- What constitutes a disability?
- Unpacking the obligation to make "reasonable adjustments"
- What is needed to utilise the defence of unjustifiable hardship?
- Accommodating therapy animals and other treatments
- Recent cases on reasonable adjustment
- The role of the NDIS in funding reasonable adjustments
- Reports and recommendations from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability that impact the education sector

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

**12.10 - 12.20pm** Panel Comments and Questions

**12.20 - 1.05pm**

## **Session 4: Accommodating Gender, Identity and Sexuality in Faith-based Schools**

Community and government recognition of gender fluidity and sexual identity has come a long way. However, accommodating students with differing needs is not so easy in practice and remains a challenging area for faith-based schools. This session will examine some of the recent legal developments in this area and what it means for the education sector, including:

- A legislative update including Tasmanian reforms to gender records
- What are a school's obligations to transgender students?
- What constitutes discrimination towards a transgender student?
- Drafting policies and procedures for accommodating transgender students
- Gender identity and single sex schools – a guide to managing the dilemmas
- The impact of "conversion therapy" laws on school activities – what activity could be in contravention?
- Advice on managing language and activity relating to sexual orientation

*Speaker: Skye Rose, Practice Leader, Moores, Melbourne*

**1.05 - 1.15pm** Panel Comments and Questions

**1.15 - 2.15pm** Luncheon

# Day 1 - Thursday 12 May 2022

## AFTERNOON THEME: GOVERNANCE ISSUES IN SCHOOLS

2.15 - 3.00pm

### Session 5: Icebergs Ahead: The Focus for School Boards in Challenging Times

During unusual and difficult times, the wider school community looks to their board for guidance and leadership. This session will examine what a prudent board should be doing to steer its organisation through stormy waters resulting from the pandemic, royal commission findings, increasing regulation and the economic downturn, including:

- The School Board skills matrix: Is the board comprised of the right people with the necessary expertise?
- Key items that should be on every board meeting agenda
- Board duties and responsibilities under the microscope
- Drafting an effective Governance Charter
- The role of a Board Code of Conduct
- Tips for conducting a board performance assessment
- Strategies to put risk management on the front foot

*Speaker: Rebecca Lambert-Smith, Practice Leader, Moores, Melbourne*

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

### Session 6: Mind the Gap: What's Missing from Your Enrolment Contract?

The relationship between the school and parents is governed by the enrolment contract, and as such no more important document exists to manage parent and student responsibilities, as well as the school's obligations to the family. This session will highlight the key terms in an enrolment contract and the consequences of not getting it right, including:

- What should make up the suite of enrolment documents?
- What disclosure should parents be asked to make on enrolment?
- Why both parents should be parties to the contract
- Incorporating policies and codes of conduct into the contract
- Essential components of fee payment clauses and school ability for recovery
- What should be included in termination provisions
- Designing appropriate and practical dispute resolution provisions
- Providing for contract amendment down the track

*Speaker: Cecelia Irvine-So, Practice Leader, Moores, Melbourne*

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

# Day 1 - Thursday 12 May 2022

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4.25 - 5.10pm

## **Session 7: Don't Ask Don't Tell: A Guide to Privacy, Confidentiality and Data Management**

Schools hold a significant amount of information about staff and students, but often confusion reigns about rights and responsibilities when it comes to requesting and disclosing such information. This session provides a deep dive into the management of personal information and advice on legal issues concerning use and disclosure, including:

- What laws govern personal information?
- What personal information can schools' request and hold?
- What are the obligations under the Privacy Act for the storage, access and disclosure of personal information?
- What is the difference between personal information and confidential information?
- Who can request personal information? What should a school do if requested to disclose personal information?
- Is consent required before personal information can be disclosed?
- Can a student or parent object to disclosure of personal information and what steps can they take?
- Guidance on development of a privacy policy and incorporating privacy policy and obligations into contracts and procedures
- Advice on information management, data protection strategies, controls and security

*Speaker: Leah Mooney, Director, KPMG, Brisbane*

5.10 - 5.20pm Panel Comments and Questions

# Day 2 - Friday 13 May 2022

**CHAIR DAY 2 MORNING: DAVID FORD, PARTNER, CARROLL & O'DEA LAWYERS, SYDNEY**

## **MORNING THEME: MANAGING STAFF IN SCHOOLS**

**9.00 - 9.05am**

**Introduction and welcome**

**9.05 - 9.50am**

### **Session 8: Strategies for Effective Staff Performance Management**

Under-performing employees can significantly impact the productivity, cohesion and morale of a school. This session will explore some strategies for timely, structured and effective performance management and a guide to what can be done when all else fails, including:

- How to set up performance expectations through:
  - Position descriptions
  - Contracts
  - Performance plans
- Key elements of effective performance management frameworks
- Perils and pitfalls in managing under-performance
- Having the hard conversations – what can you say and what shouldn't you say
- Tips for avoiding allegations of bullying and discrimination in performance management
- Establishing effective tools for performance indicators, monitoring and feedback
- Options when all else fails, including disciplinary action and terminations
- Lessons from recent cases.

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

**9.50 - 10.00am** Panel Comments and Questions

**10.00 - 10.45am**

### **Session 9: Crossing the Line: Where do the Professional Boundaries of Teachers Start and End?**

The relationships between the school, its teachers and their students are challenging and the boundaries between professional and private lives and activities are becoming blurred. This is particularly so with the advent of social media, increasing activism and the extension of schooling beyond the limits of the physical classroom. This session will examine legal issues in managing teacher conduct and what policies schools need to have in place, including:

- What rights do teachers have to a life away from their profession and how far do any constraints extend?
- What teacher conduct will cross the line? Cases and examples
- Has online learning impacted the extent of the teacher/student relationship?
- Should teachers be precluded from being in contact with students on social media platforms?
- How far can a school limit teacher activism or opinions with which it disagrees?
- Can schools contractually control teacher behaviour outside the school environment? How far can a contract go?
- Disciplinary and other options for staff management
- Tips for drafting effective policies and Codes of Conduct for staff behaviour
- A discussion of relevant legislation and cases, including *Kidd v JCU*

*Speaker: Paul O'Halloran, Partner, Colin Biggers & Paisley, Melbourne*

**10.45 - 10.55am** Panel Comments and Questions

**10.55 - 11.15am** Networking Break and Morning Tea

# Day 2 - Friday 13 May 2022

11.15 - 12.00pm

## Session 10: Fair or Foul? Lining Up the Ducks in Staff Misconduct Allegations

Investigating an accusation of teacher misconduct is a challenging process which needs to be undertaken fairly, methodically and in line with policies and accepted practices. This session will provide a guide to procedural fairness as a basis for managing allegations of misconduct, and other key measures that are needed for a robust and lawful process, including:

- Key steps in managing an allegation of misconduct
- What should be in school policies and procedures for when an allegation of misconduct arises?
- What is procedural fairness and when does it apply?
- Guidance for according procedural fairness in:
  - Investigations
  - Counselling
  - Warnings
  - Suspension and termination
- Allocating responsibilities for investigation management and decision-making
- Record-keeping and other essentials to support investigations and disciplinary action
- Managing communications with staff, students and the wider community
- Acting on findings, recommendations and implementation
- Cases and examples on what can go wrong and how to avoid problems

*Speaker: Lauren Townsend, Special Counsel, Thomson Geer, Melbourne*

12.00pm - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

**CHAIR DAY 2 AFTERNOON:  
REBECCA LAMBERT-SMITH,  
PRACTICE LEADER, MOORES,  
MELBOURNE**

**AFTERNOON THEME: MANAGING RISKS IN SCHOOLS**

1.10 - 1.55pm

## Session 11: Offsite and Third-Party Provider Risks in Student Management

Recent tragedies involving students at school camps have thrown a spotlight on the risks in offsite education and the outsourcing of educational activities to third party providers. This session will explore how schools can better prepare for, minimise and manage off-site risks, including:

- A duty of care refresher and the elements of negligence considered
- What risks to consider when planning off-site activities
- Undertaking a risk analysis for offsite activities – identifying red flags and potential areas of concern
- Outsourcing educational activities to third parties – what are the risks?
- Risk mitigation strategies discussed including:
  - Maintaining risk registers
  - Insurance
  - Contractual liability and indemnity clauses
  - Disclaimers
  - Other controls
- Child safety protection policy management outside the school grounds
- Case studies and examples

*Speaker: Katie Clark, Partner, MinterEllison, Brisbane*

1.55 - 2.05pm Panel Comments and Questions

# Day 2 - Friday 13 May 2022

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**2.05 - 2.50pm**

## **Session 12: Sorry Seems to be the Hardest Word: Best Practice Complaints and Disputes Management for Schools**

It's human nature to bury your head in the sand or jump to the defensive when faced with a complaint or a potential dispute. Unfortunately, neither reaction will achieve the best outcome. This session will examine how schools can be on the front foot when faced with a complaint, and provides a toolkit for best practice dispute management and solution, including:

- Why and how to set up a complaint handling/dispute management framework
- Delegating dispute management within the school – whose responsibility?
- Key essentials of a complaints handling procedure
- Strategies for identifying potential issues at an early stage and immediate steps that need to be taken
- Tips for taking out the heat and replacing it with a timely and structured process
- What every parent wants to happen or hear and how the school should respond
- Why apologies are so resisted and when is it appropriate to make one?
- Weighing up the merits, cost, reputational issues and other impacts before acting
- Alternative dispute resolution methods and responsive listening
- Is it ever OK to let a dispute proceed to litigation?

*Speaker: Jennifer Parkes, Partner, Hicksons Lawyers, Newcastle, NSW*

**2.50 - 3.00pm** Panel Comments and Questions

**3.00pm** Conference Close



# GENERAL INFORMATION

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## Conference Registration Fee

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The registration fee includes attendance at the conference and conference papers, refreshment breaks and lunch on both conference days.

## Conference Papers

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TEN will not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates in the lead-up to the conference (as they become available).

## CPD

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**Lawyers (except WA):** 11 CPD units (substantive law) for attending the conference.

**WA Lawyers:** 6 CPD points (substantive law). WA practitioners can claim 6 CPD points for attending the conference (being the maximum allowable per event).

## CPD Certificate

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All delegates attending the conference will receive a CPD Certificate confirming attendance.

## The Conference Venue

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### Crown Promenade Melbourne

8 Whiteman Street, Southbank

Reservations: <https://www.guestreservations.com/crown-promenade-melbourne/booking>

## Travelling to the Conference Venue

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Delegates are advised to make their own travel arrangements.

## Conference Dress

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Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves/summer tops are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

# Terms & Conditions

1. In these terms,
  - a. "TEN" means Television Education Network Pty Ltd
  - b. "you" means the person who has registered to attend or the person or persons who attend[s] the conference (if different from the person registered)
  - c. "Plan" means the COVID-Safe Plan for the conference described below.
  - d. "conference" means the live face to face or live or recorded online educational event or which you have registered (by whatever name called and includes conferences, masterclasses, webinars and webinar series).
  - e. "live conference" means a conference other than a recorded conference.
  - f. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
  - g. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
  - h. "face to face" in relation to a conference means a conference held in an external venue where you view the conference in the conference room

## General – all conferences

2. TEN may change the program for a live conference as described in the brochure you have downloaded or in the TEN website without notice to you in any manner and at any time.
3. The information and opinions of presenters at the conference are not necessarily those of TEN and are in the nature of general information and not professional advice and you rely on these at their own risk. TEN is not responsible for the accuracy of the information or the correctness of the opinions offered by presenters at the conference.
4. TEN is not responsible for any financial or other losses incurred by you or for injury or damage to persons or property which occur at or in connection with the conference.

## COVID SAFE PLAN – FACE TO FACE CONFERENCES

### What happens if you are diagnosed with COVID-19 or you are otherwise unwell?

5. If the conference is held face to face, TEN will conduct the conference in accordance with a COVID Safe Plan. You agree to comply with that Plan at the conference. If you fail to comply with the Plan, you agree to leave the conference immediately at the request of a TEN staff member or venue staff member. If you leave under these circumstances, you will not be entitled to a refund of any part of the registration fee. TEN will not be responsible for any travel or accommodation costs or fees incurred by you in relation to the conference or as a result of you leaving the conference early.
6. The COVID safe plan will prevent your attendance at a face to face conference if you are diagnosed with COVID-19 prior to or during the conference and the infection has not been cleared by two negative PCR tests, if you have a fever (ie raised temperature) at the time of registration or if you have a respiratory illness (including a cold or cough) at the start of or during the conference. In these circumstances:
  - a. You will be entitled to attend the live online version of the conference and/or recorded online version if that is offered; or
  - b. If not, you will be entitled to a full refund of the registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

## Conversion of face to face conferences to live online conferences

7. If the conference is being held face to face or face to face AND online, TEN reserves the right to convert the conference on no less than 24 hours' notice to a solely online conference or to cancel the conference or to postpone the conference to a later date if TEN determines that it is unable to hold the conference face to face on the date/s advertised for any one or more of the following reasons:
  - a. State or national border closures
  - b. Restrictions on movement of persons imposed on persons by any responsible authority in Australia
  - c. The inability or refusal of one or more presenters or TEN team members to attend the conference to present
  - d. In its opinion, it is unsafe to hold the conference face to face for any reason.
8. If TEN converts the conference from face to face only or to face to face and online to online only or postpones the conference or cancels the conference, TEN will not be responsible for any loss or damage you suffer as a result including any travel costs relating to the conference.
9. If TEN converts the conference from face to face to online or postpones the conference and as a result you are not able to attend you will be entitled to a full refund of registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

## Copyright

10. The copyright in materials prepared by presenters at a conference and made available to you by TEN is and remains the property of each presenter.
11. You are entitled to use those materials for private study and research only.
12. The copyright in the live stream and in any recording of a conference offered online is the property of TEN.
13. You are entitled to watch a conference for private study and research only.

## Conference cancellation by TEN – all conferences

14. TEN reserves the right to cancel a conference for any reason.
15. If TEN cancels the conference, you will be entitled either to a refund of the registration fee you have paid or to a credit equal to that fee which you can use to purchase another TEN product within 12 months of the first day of the cancelled conference.

## Cancellation by You – all conferences

16. Refunds for registration cancellation by you other than under Clause 6(b):
  - a. If notice of cancellation is actually received by TEN more than 10 days before the first day on which the conference is to be held, 85% of the registration fee you have paid
  - b. Otherwise, no refund.

## Governing Law – all conferences

17. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.

# REGISTRATION FORM **TAX INVOICE\***

Registration is simple; complete the form below and fax or post your registration to us or register online.

Television Education Network Pty Ltd, (ABN 19 052 319 365)

GPO Box 61, Melbourne, Victoria 3001

Phone (03) 8601 7700 Enquiries Jenna Pickrell (03) 8601 7729

Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **7th Annual Schools Law & Regulatory Conference – a 2-day conference to be held in Melbourne on Thursday 12 & Friday 13 May 2022**

**Discount Registration** – for registrations made on or before 29 April 2022 **\$2013** (\$1830 + \$183 GST)

**Full Price Registration** – **\$2178** (\$1980 + \$198 GST)

**Multiple registration discount?** Discounts are available for multiple registrations: The more you send, the greater the discount. You can access the discount by registering using the “multiple registrations” option online, or contact our Conference Manager, Jenna Pickrell, to organise your registrations. [jenna@tved.net.au](mailto:jenna@tved.net.au) or phone (03) 8601 7729.

- 3 registrations – **5% discount** for each delegate
- If you register 4 people at the same time you are entitled to a **10% discount** for each delegate
- If you register 5 people or more people at the same time you are entitled to a **15% discount** for each delegate.

**One-day only?** We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Jenna Pickrell (details above).

## Conference Papers

The papers from this conference will be available in electronic format approximately 1 week after the conference has been held. You can pre-order the papers now online via our website at [www.tved.net.au](http://www.tved.net.au). The papers are \$198 (\$180 + \$18 GST) (code: PMSLMAY22).

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