



7TH ANNUAL GOLD COAST SCHOOLS LAW AND REGULATORY CONFERENCE

Psychosocial Injury in the School Workforce

A School's Guide to Workplace Reforms

Workplace Dispute Management in the Spotlight

A School's Right to Discriminate

Relationship Management between a School & its Associated Organisations

What Needs to be in the School's Data Breach Response Plan?

Are Student Behaviour Policies Worth the Paper They Are Written On?

When Doing Nothing is not an Option: School Liability for Bullying

Disability Discrimination, Reasonable Adjustment and the Impact of the Royal Commission findings on Schools

Happy Campers? Child Safety Risks in Offsite Activities

A 1.5-day Conference

Thursday 15 & Friday 16 August 2024

Sofitel Gold Coast, Broadbeach

Feedback from last year's conference:

- Such a valuable and relevant conference - thank you so much to the team who put this together.'
- Provided expert opinion and advice on issues that are both real and pertinent and deal with all levels of governance and operation.'
- Excellent topics and engaging speakers. The high quality of the papers will be an excellent resource when these issues arise.'
- Having expert lawyers is the key. The supplementary papers are the reason I will be coming back along with the exemplary speakers we have heard.'
- Topics were relevant to current context of schools and part of what we need to be aware of continually.'



Leaders in professional development

DAY 1: THURSDAY 15 AUGUST 2024

MORNING THEME: SAFETY, PEOPLE AND PERFORMANCE

9.00 - 9.15am

Introduction and welcome

Morning Chair: Dr Lynne Doneley, International Ambassador, Associated Christian Schools, Brisbane

9.15 - 10.00am

Session 1: Happy Campers? Child Safety Risks in Offsite Activities

Outdoor education has wonderful benefits for students but also carries risks of safety, particularly when it comes to swimming and water activities. Recent drowning cases and coronial inquests have shone a light on school failures in this particular situation. This session will provide a guide to best practice preparation for managing outdoor activities involving students, including:

- The duty of care and legislative work safe obligations of schools and their third-party providers
- Key steps in undertaking a risk assessment for student participation in outdoor and offsite activities
- Coroner's findings in student drowning cases - school failures exposed including untrained staff
- Building crisis and emergency responses into risk management planning
- Assessment of external providers, safety management and relevant contractual protections
- Liability of the school board/directors
- Establishing adequate policies and procedures including adoption of outdoor education guidelines from the State education department.

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

10.00 - 10.10am Panel Comments and Questions

10.10 - 10.55am

Session 2: A School's Guide to Workplace Reforms: From Chalkboards to Checklists

As expected, the Federal Government is pursuing its workplace reform agenda, seeking to provide greater certainty and security for employees and tightening obligations on employers. This session will provide a guide to some of the most significant changes that will impact the school workforce and will highlight what schools should be doing now, including:

- Limitations on fixed term contracts - what these reforms mean for schools
- Unpacking changes to the rights of casual employees
- Flexible working arrangements and the ability to request them
- Paid parental leave and domestic violence leave entitlements
- The right to disconnect - what will this mean in practice?
- Compliance checklists - what should schools be doing now to prepare?

Speaker: Adam Foster, Partner, Colin Biggers & Paisley, Melbourne

10.55 - 11.05am Panel Comments and Questions

11.05 - 11.30am Networking Break and Morning Tea

DAY 1: THURSDAY 15 AUGUST 2024

11.30am - 12.15pm

Session 3: Workplace Dispute Management in the Spotlight

While the ability to air differences of opinion and perspectives are a sign of a healthy culture, the deterioration of workplace relationships can signal serious issues and result in significant consequences to the respective parties and the school community as a whole. This session will provide a guide to proactive and practical steps to manage and control workplace disputes, including:

- The power of early intervention and appropriate mechanisms
- Dealing with aggressive, intimidatory and threatening behaviour
- Mediation and other resolution strategies
- When to call in independent support
- Key steps in best practice investigations
- When and what kind of disciplinary action is justifiable?
- Harnessing the power of the staff code of conduct
- Tips for minimising the risk of adverse action claims
- Handling communications within the wider school community.

Speaker: Fiona Manderson, Director of Compliance and Risk, and Legal Counsel, Hillcrest Christian College, Qld

12.15 - 12.25pm Panel Comments and Questions

12.25 - 1.25pm Luncheon

AFTERNOON THEME: REGULATORY RISKS AND CHALLENGES

1.25 - 2.10pm

Session 4: A School's Right to Discriminate: Navigating the ABCs (Autonomy, Boundaries and Controversies)

At both a State and Federal level, governments are grappling with the dilemma that tries to accommodate two sides of the same coin - freedom of religious belief and the prohibition of discrimination against people with different values and beliefs. This session will examine the impact of recent reviews and reforms of discrimination law on schools, including:

- An overview of the current legal framework and tips on navigating the legal complexities and conflicts
- Recent developments in State anti-discrimination regimes
- Recommendation and responses from the Australian Law Reform Commission's review of religious education and discrimination exemptions
- What do the reforms mean for the employment of staff in faith-based schools?
- What do the reforms mean for how schools can deal with students at faith-based schools?
- What exemptions will religious schools need to rely on to be able to teach in accordance with their values?
- Strategies for finding a way forward to align school values and legal compliance.

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

2.10 - 2.20pm Panel Comments and Questions

DAY 1: THURSDAY 15 AUGUST 2024

2.20 - 3.05pm

Session 5: Testing the Boundaries: Relationship Management between a School and its Associated Organisations

The “school” is no longer just the lone corporate entity, but rather a central being in a wider community of associated organisations including the parents’ association, alumni body and old collegian sporting groups. What is the nature of these relationships and what processes need to be put in place to regulate their interaction and minimise risks? This session will explore these interactions, including:

- The nature of the legal relationship between the school and its associations and the implications for the school
- Should financial or other support be provided by the school to these associations?
- The perils of information sharing between organisations
- Reputational and other risks of association
- Can the school be liable for the acts of the associations?
- Licensing arrangements, MOU’s and other potential contracts between the school and the association
- The role of insurance and risk management tools
- Tips for managing good relationships and avoiding escalation of disputes - cases and examples of clashes between the school and alumni or parents associations

Speaker: Sonya Parsons, Partner - NFPs, Human Rights & Social Impact, Mills Oakley, Sydney, NSW

3.05 - 3.15pm Panel Comments and Questions

3.15 - 3.35pm Networking Break and Afternoon Tea

3.35 - 4.20pm

Session 6: What Needs to be in the School's Data Breach Response Plan?

With cyber-hacking on the increase, schools are a soft target with limited resources and significant personal information concerning staff, students, their families and financial details. Although having a data breach response plan is not mandatory, it is an important tool for maintaining confidence in the school and minimising reputational and financial damage from a cyber breach event. This session will provide a guide to setting up a data breach response plan, including:

- Assembling a data breach response team and allocating roles and responsibilities
- Breach identification and containment steps
- Assessing the risks to individuals
- Notification obligations including under the Privacy Act 1988
- Developing a communication strategy for the school community
- Reviewing the incident and tacking appropriate action to prevent further breaches
- Setting up relevant policies and procedures
- When to call in the experts
- Cyber insurance and other minimisation tools and activities
- Penalties for Privacy Act breaches and other consequences.

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

4.20 - 4.30pm Panel Comments and Questions

DAY 2: FRIDAY 16 AUGUST 2024

THEME: STUDENT MANAGEMENT AND STAFF SAFETY

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 7: When Doing Nothing is not an Option: School Liability for Bullying

Abuse and bullying, both in the schoolyard and online, in person or through social media, continues to severely impact student victims and leave schools open to liability for failure to act. This session will examine some recent cases and provide advice on proactive steps schools need to be taking to minimise the risks of harm to students and protect schools from claims, including:

- What constitutes bullying?
- Mental health issues and other consequences of bullying behaviour
- Duty of care of schools to prevent and deal with bullying - where does it begin and end?
- When does bullying become a crime?
- Bullying as a breach of anti-discrimination laws - are the responsibilities any different?
- What reporting obligations to authorities does a school have?
- Can the board, staff and/or students be personally liable?
- Financial and other consequences for schools for breach of their duty of care and statutory obligations
- Cases and examples of school failure to prevent bullying including *Oysten v St Patrick's College* [No 2] [2013] NSWCA 310; *Kaplan v State of Victoria* [No 8] [2023] FCA 1092

Speaker: Mathisha Panagoda, Partner, Colin Biggers & Paisley, Sydney

9.50 - 10.00am Panel Comments and Questions

10.00 – 10.45am

Session 8: Are Student Behaviour Policies Worth the Paper They Are Written On?

One of the most significant challenges for schools is managing the behaviour of students and ensuring it is undertaken in a consistent manner. The key for this is to have an effective and comprehensive behaviour management policy. This session will examine the key foundations and principles for behaviour policies and provide a guide to successful development and implementation, including:

- Legal requirements for behaviour management, discipline and policies
- Ultimate authority and responsibility for behaviour management
- Why behaviour policies often fall by the wayside
- The policy purpose and focus - discipline, punishment or prevention?
- Input from teachers, senior leaders and the school community
- What should be in a behaviour policy? Key statements and procedures
- A focus on investigations fairness and consequences
- Incorporating behavioural standards into the school community through communication, training, KPI's and more
- Policy review and assessment.

Speaker: Jennifer Parkes, Partner, Hicksons Lawyers, Newcastle

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2: FRIDAY 16 AUGUST 2024

11.15 - 12.00pm

Session 9: Disability Discrimination, Reasonable Adjustment and the Impact of the Royal Commission findings on Schools

Anti-discrimination laws require education providers to accommodate children with special needs, including where practicable, to make reasonable adjustments. This requirement is not as simple as it seems and can provide a challenge in the wider school environment. This session will look at the increasing obligations for schools in accommodating special needs, including:

- What constitutes a disability?
- Unpacking the obligation to make a “reasonable adjustment” and what it means in practice
- Exceptions including “unjustifiable hardship” - cases and examples
- The impact of NDIS funding on reasonable adjustments and allocation of responsibilities and costs
- The final recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability and their effect on schools

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

12.00 - 12.10pm Panel Comments and Questions

12.10 - 12.55pm

Session 10: The Tip of the Iceberg: Psychosocial Injury in the School Workforce

Mental health claims constitute the largest category of workplace injury, providing a significant challenge to schools as staff grapple with the increasing demands of students, parents and workload. This session will provide a guide to schools in minimising the risks of, and managing, psychosocial claims, including:

- Duty of care of employers and compliance with applicable Codes of Practice
- Tips for developing and implementing mental health policies, procedures, support and training in the workplace
- Key elements of a culture with a proactive attitude to mental health wellness
- Identifying warning signs and how to respond when genuine concerns are raised
- Undertaking welfare checks and referring employees to health professionals
- Obligations of employers in managing employees with mental health conditions including back to work strategies
- Examples and recent cases including *Kozarov v State of Victoria* [2022] HCA 12

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

12.55 - 1.05pm Panel Comments and Questions

1.05pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

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

Conference Papers

TEN does 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

Lawyers (except WA): 9 CPD units (substantive law).

CPD Certificate

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

The Conference Venue

Sofitel Gold Coast

81 Surf Parade, Broadbeach, Qld

Sofitel Gold Coast Accommodation Offer to Conference Delegates

Sofitel are offering delegates are offered a 15% discount off the best unrestricted rate of the day. To take advantage of this discount, delegates should simply call the in-house Reservation Team on (07) 5592 2250 or via email on h0454-re@sofitel.com and quote the code "2408TENLAW".

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

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).

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