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26 February 2010

Emeritus Professor S Vianne McLean AM
 Chairperson
 Non-State Schools Accreditation Board
 PO Box 15347 City East
 BRISBANE QLD 4000

Dear Professor McLean

Thank you for your letter of 4 February 2010.

I note you seek full and proper compliance by the Corporation of the Roman Catholic Diocese of Toowoomba (the Corporation) with the Non-State Schools Accreditation Board's (the Board) compliance notice by 5 March 2010.

I seek advice from the Board on the following matter which will impact on the governing body's Student Protection Kit, and other Student Protection Kits for Catholic non-state schools across Queensland.

You may recall that in the recent Toowoomba Magistrates Court decision of *R v Terence Michael Hayes* delivered on 1 December 2009, the court adopted an interpretation of s. 366 of the *Education (General Provisions) Act 2006* which is not consistent with the mandatory reporting requirements previously in practice in Catholic non-state schools across Queensland.

I enclose a copy of the judgement for your information.

The practice in place prior to *R v Hayes*, and as I understand it, the practice required by the Board, is that the persons responsible for the mandatory reporting to police of suspected sexual abuse of a student by an employee are:

1. the relevant School Principal; and
2. the director of the school's governing body, in this case myself as the Bishop of the Toowoomba Diocese and the sole director of the Corporation.

The current version of the governing body's Student Protection Kit reflects this view and practice.

In *R v Hayes* the court made the following finding:

"I will also accept, that the giving of the information to the Senior Education Officers, particularly the contents of the emails to Mr. Fry, that the defendant has given the written report to a person who is a member of, the executive or management entity, by whatever name called, of the governing body pursuant to subsection (7)(b) of section 366 – that is to say, I find the Senior Education Officers fall within the definition of director."

In other words the court extended the class of persons to whom s. 366(7) of the *Education (General Provisions) Act 2006* could apply to Senior Education Officers. On this basis there is any number of persons within the Toowoomba Catholic Education Office who would have a statutory obligation to report suspected sexual abuse of a student by an employee to police. Similar observations apply to Catholic non-state schools in other dioceses across Queensland.

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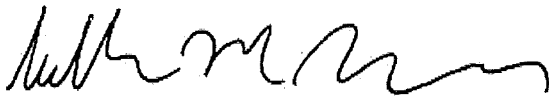
Whilst I am keen to ensure that the governing body is in a position to deliver a further complying draft of the Student Protection Kit to the Board for its consideration by 5 March 2010 I am mindful that a significant part of the kit is directed at the legislative reporting requirements of suspected sexual abuse of a student by an employee in accordance with the *Education (General Provisions) Act 2006*.

Accordingly I seek guidance as to whether the Board requires the Student Protection Kit to reflect the findings of the court in *R v Hayes* or the prevailing view that the persons with legislative reporting obligations for employee related child sexual abuse are the Principal and the director of the school's governing body ie. the Bishop as sole director of the Corporation.

I would be grateful for the Board's reply so I can ensure the further draft of the governing body's Student Protection Kit meets the Board's expectations. In this regard I seek an extension of time for the governing body to comply to 14 days from the receipt of your response to this correspondence.

If the Board requires any further information to consider this request including matters relevant to governance, please advise.

Yours faithfully



William M Morris, DD
BISHOP OF TOOWOOMBA