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BY:

12 July 2010

Non-State Schools
Accreditation Board

Bishop William M Morris DD
The Corporation of the Roman
Catholic Diocese of Toowoomba
PO Box 756
TOOWOOMBA QLD 4350

Dear Bishop Morris

I refer to the correspondence dated 11 May 2010 from Thynne and Macartney, on behalf of The Corporation of the Roman Catholic Diocese of Toowoomba (the "Governing Body"), under which was enclosed a revised Student Protection Policy in response to the 19 August 2009 compliance notice issued by the Non-State Schools Accreditation Board.

The Board acknowledges that the revised policy appears to have greater coherency than previous versions, and significant progress has been made towards compliance with the relevant requirements under the *Education (Accreditation of Non-State Schools) Act 2001* and the *Education (General Provisions) Act 2006*.

However, the Board is of the opinion that there remain a number of issues in the revised policy which require the Governing Body's attention. A key issue for the Board is that the policy does not deal consistently with the type of sexual abuse (actual or suspected) mentioned in section 366 of the *Education (General Provisions) Act 2006*, and embraced by the term "harm" in section 10 of the *Education (Accreditation of Non-State Schools) regulation 2001*.

It should be noted that any outstanding matters raised below are illustrative only and the Governing Body must ensure that the policy as a whole is consistent with the relevant legislation.

The Board makes the following comments on the revised policy:

1. The policy presents a clearer, more streamlined document overall with pages numbered sequentially from beginning to end, a single table of contents and instances of unnecessary repetition have generally been reduced.
2. The policy now includes the means for customisation for each school in respect of which it is intended to operate, inclusive of provisions for at least two persons to whom concerns about inappropriate behaviour of a staff member at the school may be reported, as required by sections 10(3)(a) and 10(4) of the *Education (Accreditation of Non-State Schools) Regulation 2001*.

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3. The policy generally reflects that where there is any doubt about an allegation of harm to a student, the matter must be reported.
4. The policy includes a section on identifying harm, giving information about signs that might raise suspicion. While the information does not expressly address signs of harm caused by an employee it is broad enough to encompass it.
5. The references to legislation are generally correct, although it is noted that the *Education (Accreditation of Non-State Schools) Regulation 2001* and the *Education (General Provisions) Regulation 2006* are not expressly specified in the legislative framework contained in section 1.6 on page 5 of the policy.
6. The policy, in so far as it deals with sexual abuse (actual or suspected) under section 366, encompasses both employees and volunteers. However, section 366 imposes obligations on staff members to report such abuse by employees who carry out work "for financial reward", and not abuse by volunteers. Such abuse by volunteers would fall under the section 10 harm provisions.
7. For category 1 behaviours, if a staff member becomes aware or reasonably suspects section 366 sexual abuse by the principal, the policy requires the first person to make a written report to the *Director of the Catholic Education Office* and the *Director of the governing body*. The policy requires either of these directors to report the matter to police. However, the obligation under section 366 is imposed on the *Director of the governing body*.
8. The reporting form linked to category 1 behaviours does not explicitly state to whom the 'first person' must report, which of course depends on whether the matter pertains to section 366 or section 10. Also, the form does not include the Director of the school's governing body as a recipient of the form or as a referrer.
9. The flow chart on page 29 of the policy does not precisely reflect the procedures set out in part 3 of the policy. The flow chart does not clearly reflect the reporting requirements under section 366. Additionally, the flow chart only refers to mandatory reporting "to the police". While this is correct for sexual abuse of a student (who is a child) by an employee, other types of harm are to be reported to "a relevant State authority".
10. The form at page 39, which the Board understands is to deal with professional misconduct of staff, includes inappropriate sexual behaviour. However, any staff misconduct of a sexual nature relating to a student who is a child would be considered under section 366, and otherwise would be considered under section 10. Inappropriate sexual behaviour should not be classified merely as professional misconduct / inappropriate behaviour.
11. As a final comment, the Board feels that (while it is ultimately the Governing Body's decision) the policy lacks a certain clarity and precision by labelling all section 366 matters "harm" even though the legislation does not use this

definition. The term "harm" is used in section 10. The policy may benefit from adjustments to make a distinction between the two.

Given these reservations, the Board does not endorse or approve the revised policy in its current form.

The Board requests full and proper compliance with the compliance notice by Friday, 20 August 2010.

Yours sincerely



Emeritus Professor S Vianne (Vi) McLean AM
Chairperson