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19 November 2009

Mr ARH

REDACTED

Dear Mr ARH

PRIVATE AND CONFIDENTIAL

In a letter dated 21 September 2009 you were informed by ASB, Headmaster of School 1, that School 1 had commenced an investigation into allegations that had been raised about your conduct. You were also informed that the information received about your conduct constituted allegations of reportable conduct as outlined in the *NSW Ombudsman Act 1974*. You have been informed that School 1 had engaged an external investigator to conduct its investigation.

As part of the investigation process you are to be provided with details of the allegations and then provided with an opportunity to respond to those allegations. The allegations fall into the following categories:

- "Misconduct that may involve reportable conduct" defined by the *NSW Ombudsman Act 1974*, amended by the *Child Protection Legislation Amendment Act 2003* and the Ombudsman's publication *Child Protection in the Workplace 2004*, and

Canberra Office

3/12 Kett Street, Kambah ACT 2902
Phone: 02 6231 0066
Fax: 02 6231 8782

Sydney Office

Level 2, 50 York Street, Sydney NSW 2000
Phone: 02 8243 1133
Fax: 02 8243 1122

Regional Office

PO Box 602, Moree NSW 2400
Phone: 0412 248 930
Fax: 02 8243 1122

- Professional misconduct in that you failed to meet the professional standards expected of you in your role as a teacher and Head of the English Department at School 1 and/or you breached a condition of your employment at School 1.

As stated, it is necessary for these matters to be put to you as part of the School 1's investigation and to ensure procedural fairness. I must emphasise that no findings have been made in relation to these allegations.

The allegations are:

Allegation 1 – Misconduct that may involve reportable conduct

It is alleged that whilst you were an employee of Knox Grammar School in 2000 and while you were an employee of School 1 in 2008 / 2009, you engaged in a pattern of inappropriate behaviour with and towards students of Knox Grammar School and towards a child known as REDACT (surname believed to be REDAC and a student at the School 2 School 2). That behaviour may constitute misconduct that may involve reportable conduct. Specifically, it is alleged that you:

- 1.1 Photographed male students in their swimwear who were students of Knox Grammar School and who were in the water polo team that you coached.
- 1.2 Permitted male students of Knox Grammar School to travel in your private car to sports training out of school hours at Curagul Oval in North Turramurra.
- 1.3 Permitted male students of Knox Grammar School to travel in your private car to play squash out of school hours and including on weekends.
- 1.4 Continued that behaviour (described in points 1.1, 1.2, 1.3 above) despite being advised by Mr Peter Crawley, the then Headmaster of Knox Grammar School, to stop that behaviour on at least two occasions.
- 1.5 Photographed a male student believed to be named REDACTED up to 130 times that included when he was in his swim wear, playing soccer and/or in a vehicle (see attachment iii).

Allegation 2 – Professional misconduct

In a document titled "School 1 – Letter of Appointment" you were informed that you had been appointed to the position of Head of English of School 1 from 1 January 2008. That letter outlined 19 terms and conditions that related to your appointment to the position at School 1. You accepted that appointment and the terms and conditions of your employment at School 1 as indicated by your signature on that document dated 24 October 2007.

- 2.1 It is alleged that on your appointment to School 1 you failed to inform School 1 that you had resigned and/or had your employment contract terminated in 2000 at Knox Grammar School after allegations had been made about your improper conduct with male students at that School (refer allegation 1 points 1.1 – 1.4).
- 2.2 As you did not inform School 1 of that information, it is further alleged you may have breached condition 16 of your letter of appointment that stated: "By accepting this appointment you are taken to have given the School an assurance that you have not:
 - (b) Been dismissed from any previous employment on the grounds that you were involved in improper conduct of a sexual nature with a student or child; or
 - (c) Retired or resigned from your previous employment following allegations that you were involved in improper conduct of a sexual nature with a student or child".

Allegation 3 – Misconduct that may involve reportable conduct

It is alleged that between Term 1 in 2008 and 18 September 2009 and whilst an employee at School 1 you engaged in a pattern of inappropriate behaviour with and towards middle school students and specifically a student named REDACTED. That behaviour may constitute misconduct that may involve reportable conduct as defined by the NSW Ombudsman Act 1974 and amended by the *Child Protection Legislation Amendment Act 2003*. Specifically, it is alleged that you:

- 3.1 On numerous occasions at recess and lunchtimes you went to the middle school playground and stared at the students who were in that playground at those times.
- 3.2 On numerous occasions you walked from the English staff room to your class room via the middle school student's locker room without there being a reason for you to go via that locker room.
- 3.3 On several occasions during 2008 you came to REDAC's class room door and asked to speak to REDA out of the class room. REDAC would leave the class room and speak to you on his own.
- 3.4 On 7, 8, 9, 10, 15, 17 September 2009 and not limited to those dates, you were with REDA in a class room at lunchtimes working closely with him on a laptop computer. On some of those occasions other students had been present and on at least one of those occasions, the door to the room you and REDAC were in was shut.

Allegation 4 - Professional misconduct

It is alleged that you used and/or permitted your School 1 issued laptop computer (Dell D630 laptop, serial number 17BCV1S) to be used for purposes that were unrelated to the educational and/or administrative functions of School 1. Specifically, you connected and/or permitted an external storage device to be connected to your computer and a file named B:\Kids Work 2008\HARDDICK.doc to be accessed. That file last being accessed from your computer on 4 March 2009.

Allegation 5 – Professional misconduct

It is alleged that you used and/or permitted your [School 1] issued laptop computer (Dell D630 laptop, serial number 17BCV1S) to be used for purposes that were unrelated to the educational and/or administrative functions of [School 1]. Specifically, you visited and/or permitted to be visited a website named www.tooshocking.com from your laptop computer on at least 5 occasions. The last visit to that site had occurred on 28 May 2009.

Allegation 6 – Professional misconduct

It is alleged that you used and/or permitted your [School 1] issued laptop computer (Dell D630 laptop, serial number 17BCV1S) to be used for purposes that were unrelated to the education and/or administrative functions of [School 1]. Specifically, you stored and/or permitted to be stored on your computer the following photographs:

- 6.1 Approximately 180 thumbnail images containing a male child named [REDACTED], believed to be an Olympic Diver from Britain.
- 6.2 Approximately 130 images of a male child named "RE" (surname believed to be [REDACTED] and a student at the [School 2] [School 2]) that included him engaged in sport activities such as water polo, soccer and/or in a vehicle (see attachment iii).

After allowing you time to consider the allegations, I will seek to interview you to obtain your response to the allegations. Your response is an important part of the investigation and will be considered before any preliminary findings are made.

You are entitled to have a support person present at the interview. The interview will be electronically recorded with your permission and you can request a copy of the interview.

As discussed with Mr John Shapiro, your union representative, I will await advice from him as to the arrangements for our interview to take place. If I have not had contact and/or received advice about your intentions to

provide a response to the allegations by **Friday 4 December 2009**, I will proceed to finalise my investigation and make preliminary findings.

I have enclosed the following information:

- i. a copy of a document titled "School 1 [REDACTED] - Letter of Appointment" for Mr ARH [REDACTED] signed by Mr ARH [REDACTED] on 24 October 2007.
- ii. a copy of a document titled "School 1 [REDACTED] - Staff laptop programme agreement to acknowledge loan and acceptance of the terms and conditions of the loan".
- iii. one copy of a photograph of the student named "RE [REDACTED]".

If you have any questions about this matter please contact me on REDACTED [REDACTED].

Yours sincerely



Kylie Starling
Senior Investigator