



6 April 2004

Mr John Borserio
Director
The Corporation of the Roman Catholic Diocese of Toowoomba
PO Box 756
TOOWOOMBA QLD 4350

Dear Mr Borserio

I am writing to you as the nominated contact for The Corporation of the Roman Catholic Diocese of Toowoomba, the governing body of the following schools under the *Education (Accreditation of Non-State Schools) Act 2001*, to advise you of an initiative commenced by the Non-State Schools Accreditation Board (the "Board") and to seek your assistance in providing the Board with copies of particular documents and other related information.

Assumption College	St Maria Goretti School
Holy Name Primary School	St Mary's College (Toowoomba)
Mary MacKillop Catholic School	St Mary's College (Dalby)
Mater Dei Primary School	St Mary's School (Goondiwindi)
Our Lady of Lourdes Primary School	St Mary's Primary School (Taroom)
Sacred Heart Primary School (Toowoomba)	St Mary's School (Warwick)
Sacred Heart Primary School (Cunnamulla)	St Mary's School (Charleville)
St Anthony's School	St Monica's School
St Columba's School	St Patrick's Primary School (Mitchell)
St Finbarr's School	St Patrick's School (Allora)
St Francis De Sales School	St Patrick's School (St George)
St John's School (Roma)	St Saviour's College
St Joseph's College	the primary school
St Joseph's School (Chinchilla)	St Stephen's School
St Joseph's School (Millmerran)	St Thomas More's Primary School
St Joseph's School (Tara)	Youth and Community Learning Centre
St Joseph's School (Stanthorpe)	

I wrote to all non-State school governing bodies on 3 December 2003 to give advance notification of new legislation in relation to student protection at non-State schools and an outline of the planned follow-up action in 2004 by the Accreditation Board.

By way of a brief overview, new legislation is being enacted dealing with the mandatory reporting to police of actual or suspected sexual abuse of students by employees of State and non-State schools.

The *Education (General Provisions) Act 1989* has been amended to include a new section 146B, which details the obligation to report sexual abuse of a student under 18 years attending a non-State school (see Attachment A). State schools are similarly covered by section 146A.

The *Education (General Provisions) Regulation 2000* has been amended to include a new section 76AA, which sets out the particulars that must be included in a report about sexual abuse (see Attachment B).

2.

The present section 10 (Health, safety and conduct of staff and students) of the *Education (Accreditation of Non-State Schools) Regulation 2001* has been amended to reorganise and simplify the current wording in various places, and to include a new subsection 10(5)(a), which is a statutory reference to reporting sexual abuse or suspected sexual abuse in compliance with section 146B of the *Education (General Provisions) Act 1989* (see Attachment C).

The new and amending legislation mentioned above will come into force on 19 April 2004.

Since the beginning of 2002, section 10 has placed an obligation on schools to have certain written processes in place about the **conduct of staff and students**, and required schools to be able to demonstrate that they are complying with the written processes. As a result of the student protection initiatives detailed above, the Board expects that schools will need to make some adjustments to their current written processes.

As foreshadowed in my 3 December 2003 letter, the Board has now commenced a program involving all non-State schools to establish the extent of conformity with the statutory requirement to have in place and operational specific written processes about the conduct of staff and students (as amended to include mandatory reporting).

Accordingly, the Board requests that for any school under your governance, after the school's written processes about the conduct of staff and students have been adjusted to include mandatory reporting matters, you provide the Board with the documents and information described below:

- (a) A copy of the written processes about the conduct of staff and students mandated by subsection 10(2) and further regulated by subsections 10(3) to 10(8) of the *Education (Accreditation of Non-State Schools) Regulation 2001*.
- (b) A description of how the governing body is complying with subsection 10(6) of the *Education (Accreditation of Non-State Schools) Regulation 2001*.
- (c) A description of how the school is implementing the written processes [subsection 10(7) of the *Education (Accreditation of Non-State Schools) Regulation 2001* refers].

If any of the requested material is embedded in a document containing a range of other related or unrelated information, it is open to you to send that larger document. If you do send it in that form, however, it would be appreciated if you would tag and mark clearly the requested information with cross references to the relevant sections of the legislation to enable the material to be readily identified and located by Board Members.

The Board would appreciate this material **as soon as possible**, but no later than **28 May 2004**.

Please note that the Board is not requiring the written processes about health and safety of staff and students mentioned at subsection 10(1) of the *Education (Accreditation of Non-State Schools) Regulation 2001*.

I have attached a copy of the relevant sections of the legislation for your assistance. Also, a copy of the legislation referred to in this letter may be found on the Queensland Parliamentary Counsel's web site at <http://www.legislation.qld.gov.au> or a copy may be purchased from Goprint, the Government Bookshop, by telephoning (07) 3246 3399 or Toll Free 1800 679 778.

The Board notes that, even though schools will already have written processes in place and be implementing them, some effort may still be required by governing bodies and school staff to include these legislated student protection initiatives into the processes. Members of the Board would like to thank you and relevant school staff in advance for assistance with this important matter, and look forward to receiving the requested material as soon as possible.

3.

I invite you to contact Ms Debbie Tanzer of the Board's office on telephone (07) 3237 9947 if you require further information about this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Webb', written in a cursive style.

Emeritus Professor Roy Webb AO
Chairperson

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Education (General Provisions) Act 1989

Amendments to section 2 — Proclaimed to commence on 19 April 2004

New section 146B — Proclaimed to commence on 19 April 2004

2 Interpretation

(1) In this Act

“employee”, of a non-State school or State school, means a person engaged to carry out work at the school for financial reward.

“principal”, of a non-State school with no position by that name, means a person responsible for the school's day-to-day management.

“reasonably suspects” means suspects on grounds that are reasonable in the circumstances.

146B Obligation to report sexual abuse of student under 18 years attending non-State school

(1) Subsection (2) applies if a staff member of a non-State school (the “first person”) becomes aware, or reasonably suspects, that a student under 18 years attending the school has been sexually abused by someone else who is an employee of the school.

(2) The first person must give a written report about the abuse, or suspected abuse, to the school's principal or a director of the school's governing body

(a) immediately; and

(b) if a regulation is in force under subsection (3), as provided under the regulation.

Maximum penalty—20 penalty units.

(3) A regulation may prescribe the particulars the report must include.

(4) A non-State school's principal or a director of a non-State school's governing body must immediately give a copy of a report given to the principal or director under subsection (2) to a police officer.

Maximum penalty—20 penalty units.

(5) A person who makes a report under subsection (2), or gives a copy of a report under subsection (4), is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report to someone else.

(6) Without limiting subsection (5)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the given information under an Act, oath, rule of law or practice—the person does not contravene the requirement by giving the information.

(7) In this section—

“director”, of a non-State school's governing body, means—

(a) if the governing body is a company under the Corporations Act—a person appointed as a director of the governing body; or

(b) otherwise—a person who is, or is a member of, the executive or management entity, by whatever name called, of the governing body.

Education (General Provisions) Regulation 2000

New section 76AA — To commence on 19 April 2004

76AA Report about sexual abuse—Act, ss 146A and 146B

A report under section 146A or 146B of the Act must include the following particulars—

- (a) the name of the person giving the report (the “first person”);
 - (b) the student’s name and sex;
 - (c) details of the basis for the first person becoming aware, or reasonably suspecting, that the student has been sexually abused by an employee of the school;
 - (d) details of the abuse or suspected abuse;
 - (e) any of the following information of which the first person is aware—
 - (i) the student’s age;
 - (ii) the identity of the employee who has abused, or is suspected to have abused, the student;
 - (iii) the identity of anyone else who may have information about the abuse or suspected abuse.
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Education (Accreditation of Non-State Schools) Regulation 2001

Existing section 3 — Not amended

Amendments to section 10 — To commence on 19 April 2004

3 What is "harm" caused to a student under 18

(1) "Harm", caused to a student under 18 years, is any detrimental effect of a significant nature on the student's physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by—

- (a) physical, psychological or emotional abuse or neglect; or
- (b) sexual abuse or exploitation.

10 Health, safety and conduct of staff and students

(1) A school must have written processes about the health and safety of its staff and students, that accord with relevant workplace health and safety legislation.

(2) Also, the school must have written processes about the appropriate conduct of its staff and students, that accord with legislation applying in the State about the care or protection of children.

(3) Without limiting subsection (2), the processes must include—

- (a) a process for the reporting by a student to a stated staff member of behaviour of another staff member that the student considers is inappropriate; and
- (b) a process for how the information reported to the stated staff member must be dealt with by the stated staff member.

(4) For the process mentioned in subsection (3)(a), there must be stated at least 2 staff members to whom a student may report the behaviour.

(5) Also, without limiting subsection (2), the processes must include the following—

- (a) a process for reporting sexual abuse or suspected sexual abuse in compliance with the *Education (General Provisions) Act 1989*, section 146B;
- (b) a process for—
 - (i) the reporting by a staff member, to the school's principal or another person nominated in the process, of harm that—
 - (A) the staff member is aware or reasonably suspects has been caused to a student who, when the harm was caused or is suspected to have been caused, was under 18 years; and
 - (B) is not harm to which the process mentioned in paragraph (a) applies; and
 - (ii) the reporting by the principal or other person, to a relevant State authority, of the harm or suspected harm if the principal or other person also is aware or reasonably suspects the harm has been caused.

(6) The processes must—

- (a) be readily accessible by the staff and students; and
- (b) provide for how the staff and students are to be made aware of the processes.

(7) The school's governing body must be able to demonstrate how the school is implementing the processes.

(8) In this section—

"relevant State authority", means—

- (a) the chief executive, or another officer, of the department in which the *Child Protection Act 1999* is administered; or
- (b) an authorised officer under the *Child Protection Act 1999*; or
- (c) a police officer.