

DUTY OF CARE POLICY

LEGAL RESPONSIBILITY AND THE DUTY OF CARE

Each of us owes a duty of care towards those with whom we come in contact. While we are all subject to risks, teachers by the very nature of their profession are exposed to special risks. Their function involves the rights of others and teachers are vulnerable to the extent that their work involves relationships with various people. Teachers' duties are subject to special obligations of which they are expected to have a reasonable working knowledge. More lately courts have considered that duty to arise independently, from the very relationship of teacher and student, and have stated the duty more generally:

(The teacher) owes to each of their students whilst under their control and supervision a duty to take reasonable care for the safety of the student. It is not, of course, a duty of insurance against harm but a duty to take reasonable care to avoid harm being suffered. It is important to note that it is duty to take reasonable care and not an absolute duty to prevent injury or harm. The law acknowledges that accidents do happen. The court explains why such a duty has been imposed:

The reason underlying the imposition of the duty would appear to be the need of a child of immature age for protection against the conduct of others, or indeed of themselves, which may cause them injury coupled with the fact that, during school hours, the child is beyond the control and protection of their parents and is placed under the control of the teacher who is in a position to exercise authority over them and afford them, in the exercise of reasonable care, protection from injury.

(Handbook for Parish Schools - Diocese of Lismore)

Non-government schools have a duty of care to their students. This is a general common law requirement and implies that individual teachers as well owe to each of the student, under their control and supervision a duty to take reasonable care for the safety of such students - not to the point of a duty of insurance against harm, but a duty to take reasonable care to avoid harm being suffered.

(This formulation is a paraphrase of a decision of the Chief Justice of the Victorian Supreme Court discussed in an article by IEU Industrial Officer, Neale Dawson, of *Independent Education*, March 1993, Vol. 23 No. 1 *Legal Liability and Schools* page 4).

EMPLOYMENT CONTRACTS

Teachers and staff must work within the reasonable norms of their professional practice and in conformity with the reasonable requirements of the employer. Procedures put in place by a school authority designed to afford safety and security to students are an important framework for professional practice.

NSW Regulation

Teachers, principals, deputies, counsellors and social workers (at schools) in government and non-government schools have been prescribed as mandatory notifiers of suspected sexual abuse. In September, 1996, a re-issuing of the regulations mistakenly omitted any reference to non-government schools.

LEGAL RESPONSIBILITIES

This general statement is intended to alert Principals and teachers to their responsibilities and therefore make them more aware of what the law expects of them in their professional role.

The treatment of this important subject must of necessity be broad. Therefore the basic principles stated here are intended as useful guidelines and should not be regarded as a substitute for consultation with the school's legal and insurance advisers where that is appropriate. If such consultation is necessary the advice of the Catholic Education Office should be sought.

LEGAL REQUIREMENTS OF SCHOOLS

The **Education Reform Act 1990**, establishes certain basic requirements of all schools and particular requirements in relation to non-government schools. Certain activities of schools are circumscribed by other government legislation.

- **REGISTRATION AND ACCREDITATION OF SCHOOLS**

All schools must have registration and secondary schools must also have accreditation. With the proclamation of the Education Reform Act, responsibility for recommendations to the Minister on the registration of all non-government schools and accreditation for non-government secondary schools has been transferred to either the Board of Studies or to Approved Registration Systems.

- **Diocesan Registration System**

In 1992 the Lismore Diocese became an approved Registration System.

The Diocese is currently involved in the development and implementation of monitoring procedures for the purpose of future registration and accreditation of its schools.

The decision taken by the Diocese to form a Registration System provides many opportunities for professional planning and setting direction for the future of Diocesan schools.

All schools should now have received certificates confirming registration for primary schools and registration and accreditation of secondary schools.

Section 66 of the Act states:

"The current certificate of registration of a non-government school is to be displayed in the entrance to the main school building or in some other conspicuous place at the school".

- **Attendance of Students**

Attendance at school of students aged 6 years to 15 years is required by the Public Instruction Act of 1916. It is important that records relating to admission and attendance are retained permanently.

The Principal has a legal responsibility to ensure that records of attendance are accurately kept and that appropriate action is taken in the case of students who are absent from school without reasonable cause.

- **Disability Discrimination Act**

The Disability Discrimination Act of 1992, has serious ramifications for schools, making it unlawful for an educational authority to discriminate against a student by refusing or failing to accept an application for admission on the grounds of the applicant's disability, or in the terms or conditions on which it is prepared to admit the applicant as a student.

The Act also prohibits harassment by staff in relation to a student's disability.

While schools do not have to accept a student with disabilities if the provision of services and facilities for that student would impose unjustifiable hardships on the establishment, Principals are reminded that all decisions regarding such applications should be in harmony with Diocesan Board policy in relation to such applications.

Refer also to Special Education.

- **Work Experience Program**

Work Experience has become an accepted part of curriculum in secondary schools in recent years. Schools should be aware of the legal requirements as advised by the Department of Industrial Relations, Employment and Training. Advice on existing legislation is also available from the Catholic Education Office.

- **Copyright Act**

The Copyright Act makes specific provision for Educational institutions in the matter of equitable remuneration for copyright owners. Only those collecting societies declared by the Commonwealth Attorney-General are recognised by Educational institutions in regard to their copyright obligations.

- **Declared Collecting Society**

The National Catholic Education Commission advises all Catholic schools that licences negotiated with the declared collecting societies through the Australian Education Council Working Party on Copyright Law fully cover Catholic school responsibilities towards copyright owners.

- **Copyright Cover for Catholic Schools**

The Catholic Education Commission (CEC) NSW, on behalf of systemic schools in the Diocese, has signed voluntary licensing agreements with four declared collection societies.

a) Copyright Agency Ltd. (CAL) for printed material other than sheet music; this agreement will give participating schools more scope in copying materials, eliminate the need for record keeping, simplify the method of payment for copying in the future and regularise payment for copying done in the past

b) Australian Mechanical Copyright Owners Society (AMCOS) for sheet music; this agreement will give participating schools the rights to copy all sheet music in certain circumstances.

c) Audio Visual Copyright Society (AVCS) for copying radio, television, phonographic etc. - with some reservations.

d) Australian Performing Rights Association (APRA) for use of music in performance.

N.B. Performance for gain is dangerous especially out of school premises.

- **Children and Young Persons (Care & Protection)**

The *Children and Young Persons (Care and Protection) Act 1998* prescribes the role of the Department of Community Services in child protection. This role includes, but is not limited to, providing or arranging services to children, young people and parents when a request for assistance is received; receiving and assessing reports of children of young people at risk of harm; and acting to maintain the safety of children and young people.

DoCS has the lead responsibility under the *Children and Young Persons (Care and Protection) Act*. It has:

"Wide ranging statutory powers to enable it to carry out its role in protecting children and young people from abuse and neglect on behalf of the community..... the Departments of Community Services has the mandate to coordinate responses and to ask other agencies to provide appropriate care and support to children, young people and the families."

Source: Interagency Guidelines for Child Protection Intervention, CCYP, 2000.

Note: For the purposes of the Children and Young Persons (Care and Protection) Act a child is a 'person who is under the age of 16 years' and a young person is a 'person who is aged 16 years or above but who is under the age of 18 years'.

- **Guidelines for Mandatory Notification of Child Sexual Assault**

In all instances of mandatory notification schools should follow guidelines adopted by the Lismore Diocese and issued to all schools.

'Suggested Procedures for the Mandatory Notification of Child Sexual Assault' has been prepared by the Catholic Education Commission of NSW. Its statements are accepted as policy for this Diocese.

The document contains guidelines for Principals and staffs in exercising their legal responsibilities in relation to laws of notification. Page 18-19 discusses the question 'What are reasonable grounds?' Page 20 identifies the steps relating to interviews involving DOCS. Pages 21-26 contain a useful checklist which could also serve as the framework for a record of any notifications.

Principals should make a copy of the document available to all staff and ensure that staffs are familiar with its contents.

- **The School Authority**

As noted in the Preface of the document, the school authority in our system is the Trustees of the Roman Catholic Church, Diocese of Lismore. For all purposes connected with the Children and Young Persons (Care & Protection) Act 1998 responsibility for the schools authority has been delegated by the Trustees to the Director of Catholic Schools. The Director should therefore be kept fully informed of any matter relating to child sexual assault.

Other Legislative Requirements

ACT	KEY AGENCY ISSUE
Ombudsman Act 1974	All government departments, public authorities and certain non-government agencies in NSW are required to respond to allegations or convictions or reportable conduct against an employee and to notify the Ombudsman.
Commission for Children and Young People Act 1998	Agencies are required to use the new "Working With Children Check Guidelines" to screen people who apply to work in child-related positions in their organisation.
Child Protection (Prohibited Employment) Act 1998	Employees, who work in certain unsupervised child related positions, are required to complete a "Prohibited Employment Declaration" and to declare if he/she is a "PROHIBITED PERSON".
Children and Young Persons (Care and Protection) Act 1998	Mandated employees are required to report to the "Helpline" of DoCS any Children and Young People whom they suspect to be at "risk of harm".

PREVENTION

Child protection is a broad responsibility and involves more than responding once an allegation has been made. IT involves minimising the possibility of reportable conduct occurring in the first place. The Diocese of Lismore is totally opposed to any form of reportable conduct practices and supports child protection and prevention in the workplace.

Strategies that can be utilised by the Diocese of Lismore to prevent reportable conduct practices could include:

- Developing and reviewing strategies to minimise reportable conduct occurring e.g. conducting child protection induction sessions for new and casual teachers to the Diocese of Lismore and encouraging individual School Principals to ensure Child Protection forms a regular part of staff meetings;
- Requiring clerics, Religious and employees to sign off their acknowledgement and understanding of the child protection policy;
- Ensuring the policy is dated as well as a date it will be reviewed;
- Having guidelines e.g. code of conduct, that define appropriate and inappropriate behaviour;
- Clearly defining each persons Vocation or role within the organisation;
- Implementing thorough Vocational training/ Incardination or employment procedures strategies that identify people who are not suitable to work with children. E.g. reference checking, pre-employment screening and detailed questioning at interviews;
- Providing information to families and the community on the Child Protection strategies that have been adopted by the Diocese of Lismore e.g. included in Parish and/or school handbooks;
- Training for clerics, Religions and employees to promote best practices and to ensure a safe environment for children and employees;
- Raising awareness in the general community about child protection by displaying brochures, posters and school newsletters.

○ **Students' Property**

Students although in the main, minors under the law, still have rights to property and like any other citizens are entitled not to have their property rights transgressed. It is quite common for teachers to take from pupils, objects that have been the source of mischief or harm or distraction in the classroom or in the playground. There are situations where a teacher to maintain discipline and in some cases to ensure the safety of others has to confiscate students' property. However, a teacher does not have the right to permanently deprive a student of the possession of property. This could amount to stealing at law. Property should be returned to the student after a reasonable period of time has elapsed or if the object is harmful it would be wise for the Principal to contact the parents and make arrangements to hand the object over to them.

Property left with a teacher for safe keeping should also be properly secured, rather than leaving such property in a desk drawer in the classroom. All due care must be taken, otherwise the teacher

will be liable for the loss, if such reasonable care was not exercised, and as a result, the article lost Refer also to Prohibited Items.

- **Occupational Health and Safety Act**

The NSW Occupational Health and Safety Act, 1983 and regulations which came into effect in 1984 places a statutory responsibility on all employers to provide a safe place of work and protect all persons who enter their premises from injury.

The Catholic Education Office is committed to preventing work-related injury or illness to employees through the provision of a safe and healthy working environment in the schools.

Relevant extracts from the Act and the Regulations have been forwarded to all systemic schools for display on staff notice boards as required by State law. Schools should be familiar with the provisions of the legislation. The Catholic Education Office will advise schools from time to time on appropriate methods for compliance with the Act and Regulations. Refer also to Maintenance.

- **Smoke Free Zones in Schools**

All Diocesan school buildings are now declared Smoke Free Zones. This decision by the Board is in line with the responsibilities placed on the school within the NSW Occupational Health and Safety Act. In relation to the school grounds, the Trustees advise that it should be left to the local school administration in consultation with the Parish Priest to determine its position. Refer also to Smoking.

- **Occupational Rehabilitation Programme**

The Occupational Rehabilitation Program has been developed by the Catholic Education Office for the purpose of restoring an employee, suffering from workplace injury or illness, to the employee's fullest physical and vocational potential.

- **The Animal Research Act**

The Animal Research Act (1985) requires all teachers involved with the use of animals in schools to be fully informed of the requirements of the Act.

All schools should have:

1. *Animals in Schools: Animal Welfare Guidelines for Teachers*: a booklet produced by the Schools Animal Care and Ethics Committee to all secondary schools from the Catholic Education Office. Similar information is available for primary schools from the Catholic Education Office if they are involved in the acquisition of animals for schools use.

This booklet is for use of staff who implement or participate in teaching/learning activities which involve the use of live animals. Each school should keep the booklet and it is suggested that its documentation relating to the Act and a photocopy of the booklet be made accessible to all staff using live animals.

2. *Animal Research Authority Proforma*: In accordance with Division 3 of the Act the Proforma must be maintained as part of each school's documentation relating to the implementation of teaching/learning activities involving animals.

This proforma itself has to be completed and maintained by school Principals who have the responsibility for determining which of their staff should be authorised to undertake teaching/learning activities which involve the use of animals.

This proforma is subject to annual renewal and will be available to schools on request All schools, primary and secondary, must maintain the current proforma in order to provide for the possibility that they may wish to use animals in a teaching situation.

LEGAL RESPONSIBILITIES OF TEACHERS

As citizens, we are expected to know the law. Courts act upon the maxim, ignorance of the law is no excuse. Although it is impossible to know all of the laws it is helpful for Principals and teachers to have some knowledge of those that relate to their work.

- **General Legal Responsibility**

Each of us owes a duty of care towards those with whom we come in contact. While we are all subject to risks, teachers by the very nature of their profession are exposed to special risks.

Their function involves the rights of others and teachers are vulnerable to the extent that their work involves relationships with various people. Teachers' duties are subject to special obligations of which they are expected to have a reasonable working knowledge.

- **Negligence and Liability**

The subject of negligence and the legal principle that may apply has produced a vast amount of literature, all of which may not be sufficient to decide liability in a particular case.

While a worthwhile assessment of liability can be made only by the application of relevant principles to the actual set of circumstances of a specific case, the following statements will be of assistance. In schools, negligence falls into two broad categories. There are claims for damage resulting from:

- the state of the school buildings or grounds, or activities being carried out on buildings or in the grounds, and
- some act or omission on the part of an individual teacher.

- **Principals and the Duty of Care**

Principals must have a clear knowledge of the privileges the law confirms and the limitations that it places on their activities.

Such knowledge will free them to exercise constructive vital leadership and help them to avoid lengthy legal proceedings. Without it, the Principals are ill-equipped to deal with the simplest questions of law and may be inhibited in their consideration of valuable initiatives. Broadly speaking, Principals are responsible for maintaining adequate standards of instruction, order and discipline, and for the health, safety and welfare of the children under their authority. Increasingly, their duties include accountability for receiving and disbursing school funds.

Principals should be very careful to ensure that premises and activities carried out on them do not injure persons whose presence is known or reasonably foreseeable. This duty of care extends to any goods or articles used by students, and to parents and friends invited to school functions and meetings. It extends to persons who come into the grounds with the Principal's permission, for example someone playing in the school grounds outside school hours.

Principals must be aware of their obligation to behave as reasonable, prudent persons would under similar circumstances and with comparable responsibilities. They have an obligation to ensure that their members of staff behave similarly. If they fail in these obligations, they may be judged guilty of negligence and be held accountable for damages.

- **Teachers and the Duty of Care**

(The teacher) owes to each of his students whilst under his control and supervision a duty to take reasonable care for the safety of the student. It is not, of course, a duty of against harm but a duty to take reasonable care to avoid harm being suffered. It is important to note that it is duty to take reasonable care and not an absolute duty to prevent injury or harm. The law acknowledges do accidents do happen. The Court explains why such a duty has been imposed:

The reason underlying the imposition of the duty would appear to be the need of a child of immature age for protection against the conduct of others. Or indeed of himself, which may cause him injury. Coupled with the fact that, during school hours, the child is beyond the control and protection of his parent and is placed under the control of the teacher who is in a position to exercise authority over him and afford him, in the exercise of reasonable care and protection from injury.

- **Supervision**

The Principal has a legal obligation to maintain an efficient system of supervision. The responsibility to provide supervision is paramount and overrides all other administrative considerations.

Teachers assigned to supervision duties must actively and closely supervise the students. It is not sufficient merely to be passively in the general area of students requiring supervision.

The amount of actual supervision required of teachers depends on the age and ability of the students as well as the activity in which they are engaged.

Supervision can be looked at in various settings related to school activities:

- **The Classroom**

There is a duty to exercise reasonable supervision in the classroom. The degree of care might well be influenced by such factors as the age and sex of the students and the number in the class. Experience indicates that the main problem with secondary students is fighting and horseplay through inadequate supervision. They are old enough to cause serious injury to each other if such conduct is not tightly controlled. With primary children the main problem may be throwing of objects that might cause eye injury and with very young children, the danger that if they are left unsupervised for too long, they might sustain or cause injury to themselves or others. Teachers have been found legally liable in circumstances where there was inadequate supervision.

Teachers should only leave the classroom in emergency situations, otherwise they can also be held liable when problems occur during their absence. Further if an emergency arises teachers should set some suitable task for students to undertake during their absence

- **Playground**

There is a responsibility on the school to arrange adequate supervision and on supervising teachers to exercise reasonable care and vigilance. Courts have often stated that this is not an obligation to keep every student continuously under supervision. They have also refused to state ratios of one teacher to so many students, but have repeated that no two situations are the same and that each must depend on its own circumstances. Such factors as the size of the playground, the number of students in it, their age, their activities, whether surveillance is obstructed by buildings, will be relevant in deciding what supervision is reasonably necessary. Ultimately, this is a decision for the Principal. It is important that each teacher on playground duty be vigilant and endeavour to avoid distraction. Once a potentially dangerous situation develops, the teacher should act quickly to prevent it. Where Courts have found teachers and schools legally responsible in this situation, it has generally been when an incident has occurred some appreciable time earlier without action by the teacher or there have been similar incidents previously which have not been acted upon. Refer also to Supervision Duties.

- **Games / Sport**

A school is not generally liable for injuries sustained by a student while playing in one of the regular school games, provided it is being played according to the rules and unfair play is penalised.

Common Law considers that sports and games, which contain an obvious element of danger, are only played by persons who know they may be injured and therefore voluntarily accept the risk.

- **Excursions/Educational Visits**

When students undertake an activity such as an educational visit or excursion organised by the school, the Principal should be satisfied that the travel arrangements are properly detailed, that the tour is reasonably safe in nature and location and that it can be adequately supervised.

Hence teachers must not proceed with the enterprise without first obtaining the Principal's approval. Careful supervision during out of school activities is paramount as excursions commonly involve unusual risks. Refer also to Out of School Activities.

- **Before and After School**

The teachers' responsibility to students arises before the commencement of formal teaching and extends beyond the cessation of formal teaching on any school day.

When teachers arrive early or leave late. Parents, unless advised to the contrary, could easily assume that because the school is open outside normal school hours, there would be adequate supervision of children. To guard against such assumptions, schools are strongly advised to adopt the following policy, that at the beginning of the year and at regular intervals throughout the school year, parents are clearly notified:

- (1) that children are not allowed to come to school before a certain hour and are required to leave before a certain hour.
- (2) that there is no supervision either at the school or in the school surrounds outside official school hours and that if teachers are present at the school they are present for other reasons and will not and cannot perform supervisory duties and the parent is responsible for supervision and safety of the child during those periods. Refer also to Maintenance.

- **School Premises - Safety**

The school is under an obligation to ensure that its premises are safe and that there are no unusual dangers or traps, which might cause injury to students or visitors. Although this is a duty of the school and not the teachers, they should be constantly on the lookout for any defects in the premises, which might be a source of danger and should immediately report them to the Principal who can raise the matter with the school authorities. Such things as defective playground be particularly watched.

OUT OF SCHOOL ACTIVITIES

Out of school activities may be formal activities such as excursion tours, camps, and vacation trips, air or sea travel or sporting fixtures.

They also include more informal activities such as local educational trips, which can be considered part of the normal teaching process rather than formal excursions. Refer also Excursions.

- **Approval**

Principals have the responsibility to approve all out of school activities and ensure that proper supervision is provided.

Principals should satisfy themselves beforehand that the activity is reasonably safe and that it can be adequately supervised. They should ensure that parents receive prior advice about travel plans, educational activities and supervision arrangements.

Efficient planning and commonsense highlight the need for teachers to visit excursion sites before taking the students to them. This will facilitate an up-to-date appraisal of educational potential, hazards and facilities.

- **Supervision of Students**

Sufficient numbers of staff or approved persons to ensure proper supervision must accompany the group.

In deciding what constitutes sufficient members of staff necessary for adequate supervision, Principals should take into account the age of the students, the size and composition of the group, the activities to be undertaken during the visit, the nature and location of the visit and any other factors of relevance.

For local short excursions the class teacher may be considered as being able to provide the necessary supervision with/without assistance of parent helpers. The teacher's liability would be that of a teacher in charge of a class, and the teacher would be expected to exercise the normal care and supervision of the students as if he/she would in the classroom.

During an out of school activity the teacher has responsibility for the safety of the students from the moment of departure to the moment of return.

- **Parental Consent Forms**

Parents should sign Consent Forms but parental consent in no way relieves teachers supervising an excursion from their responsibilities towards students. Consent Forms that promise all care but no

school responsibility, cannot prevent parents from suing for negligence against teachers who fail to take adequate precautions.

For some out of school activities, e.g. activities involving overnight stay, it is recommended that in addition to granting session for the student to participate the Consent Form should also include a clause regarding medical attention.

Example:

"In the event of any illness or accident, I authorise the obtaining on my behalf of such medical assistance as my child may require and accept the responsibility for payment of any expenses this incurred".

These statements should remain in the possession of the teacher in charge of the party at the school prior to departure.

In the event of illness or accident the parents and the principals should be contacted as soon as possible.

- **Transporting Students**

- **Use of Teachers' Cars**

- When a teacher transports a student by car on any occasion, including to a school function, sports event or to home because of illness, the teacher is liable in any action by the student if the latter is injured by reason of the negligence of the teacher. This is the primary liability of the driver of a car when carrying a passenger at any time.

- The claim is for both personal injuries and for damage to the student's property but this latter is usually an unlikely claim in the case of a child.

- It should be noted that the driver bases such a claim upon negligence.

- Third-party insurance policies indemnify the teacher-driver in respect of the claims against him for personal injuries to a child passenger. The usual motorist's 'comprehensive' insurance policy would cover the driver against claims for any property loss.

- It is recommended, wherever possible, that staff use the College Car to transport students.

- **Use of parents' cars**

- What is said about a teacher also applies where a parent transports children. As the driver the parent could be sued for negligence. The third-party policy would provide a limited indemnity, referred to above, to the parent in respect of the claim. The comprehensive policy would take care of the rest of the claims.

- **Bus Charter**

- The relevant legislation as to the operation of school charters is the Passenger Transport Act 1990 and Regulations 1990. The Catholic Industrial Office advises schools that although a bus company may request it, they are not required to sign a form relating to the 3 to 2 seating for school charters as an obligation is already imposed upon the driver under the Act. In the event of an accident if such a form was signed it may also raise the issue of liability.

- **RIGHTS OF ACCESS**

Visitors to a school should always be received courteously and may be invited by the Principal to observe its operations provided there is no serious interruption to scheduled activities. There are, however, occasions when entry and access should be denied. Principals should exercise their judgement in this regard.

- **Access to School Premises**

- Generally, a person seeking approval to question members of the school community should be asked to show identification. If this is not satisfactory, access should be refused. As the school grounds are private premises, a Principal may decline to allow on those premises anyone considered undesirable. All visitors to the College are required to sign in the visitors book upon arrival and sign out before leaving.

- **Access to Students**

Principals and teachers should be clear about who has access to students whilst they are in the care of the school and under what circumstances this right of access can be exercised. Police officers have a right of entry into private property for the purpose of questioning any person. With regard to separated partners in a broken marriage, only the parent who has custody of the child has legal access during school hours. The Principal should not allow access to a student during school time to a partner who does not have custody. They or their legal adviser must settle any difficulty that the two parents have regarding custody. The school should not become involved.

- **Access to Information / Disclosures**

Addresses of students must not be given to unauthorised persons. A parent living apart from one with whom a student is domiciled must be regarded as an unauthorised person. In general, anyone who is not a parent or guardian should not be given the address of a student. Similar principles should be used with respect to permitting persons to see students at school. This relates to the Privacy of Information Act in NSW enacted in December 2001.

All requests for information regarding students and parents other than by authorised persons should be directed to the Principal.

A Principal is not obliged to supply information about a past or present student to a legal person without the permission of the student's parents, unless a subpoena has been served on him. The Principal or staff should not give Record Cards information about students including information on student to any unauthorised person.

- **OTHER MATTERS OF A LEGAL NATURE**

- **Privacy**

The Catholic Education Office subscribes to the NSW Catholic Education Commission Policy on Privacy. In relation to surveillance of classrooms, this policy rejects the invasion of privacy in the classroom setting by the use of listening devices of any form.

- **Parental Consent**

Parental consent is necessary before permitting students to participate in certain games, educational excursions, work experience, school camps and other outings, excursions and functions. Catholic Church Insurances Lid are able to supply parent authority and consent forms. Copies have previously been sent to all schools. Refer to Section 9.3.3 Parental Consent Forms.

- **Evacuation Procedures, Fire Drill and Lock Down Procedure**

It is important for schools to develop policies and procedures to meet emergency situations. They should also have procedures to deal with post disaster situations e.g. after a flood or fire.

The College conducts two evacuation procedure drills and two lock down procedure drills each year.

- **Accidents/Injuries**

- **"Register of Injuries" Booklet**

The 'Register of Injuries' is a booklet provided by Catholic Church Insurance for the school's convenience, for recording all student-related injuries.

When a student is injured details are entered in the register and the original and duplicate copies forwarded to the CCI.

For staff members it is a requirement under the Workers' Compensation Act that claim forms and relevant certificates be received by CCI within **seven days** of an accident report, or any indication of a claim to be pursued under the Workers Compensation Act 1987.

- **Task Related Accidents**

The legal guiding principle for duty of care is that a teacher should act as a careful parent would act when engaging students for various tasks and duties in connection with the school.

- **School Crossings**

School crossings are legal crossings only when they have been set up correctly and the flags are displayed. Students should remove flags promptly following the use of crossings. The local council is responsible for the correct setting up of the crossing and, in general, for the supply of flags and the replacement of faded flags.

The written consent of the parents should be obtained before students are involved in activities such as putting out or taking in of crossing flags or acting as monitors at school crossings.

- **Sale of Liquor at Schools**

It is an offence under the Liquor Act (1982 'The Act') to sell liquor without an appropriate licence. This has implications for the sale of liquor at school or through school bodies (eg Anniversary Port etc)

Information regarding provisions of the Act have been distributed to schools.

- **Drugs in School**

In all circumstances where a student is found in the possession of a prohibited drug the Principal and appropriate authorities should be notified.

- **Interviewing and Counselling Individual Students**

There are inherent dangers for staff members in the provision of private interviews and counselling services for individual students at school particularly with students of the opposite sex. School staff engaged in interviews with individual students or in private counselling would be wise to ensure that the meeting with the student is observable by other staff members or students or that other precautionary measures are followed that help to safeguard the reputation of the teacher.

- **SCHOOL INSURANCE**

School Insurance is concerned with loss of property and loss of life, health or limb, and with legal responsibilities arising from employment, from the occupancy of buildings and from the use of vehicles.

- **Catholic Church Insurance Ltd.**

Catholic Church Insurances Ltd (CCIL) is the Catholic Church's own insurer. Catholic Church Insurances Ltd, exists to provide insurance protection for the Church's personnel, properties and liabilities. Its activities are confined solely to catering for the insurance needs of the Catholic Church.

Information about policies of the Company may be obtained from:

Catholic Church Insurances Ltd
Holding House, 276 Pitt Street
SYDNEY NSW 2000
Telephone (02) 264 5799

- **General Insurance**

The Principal in consultation with the Parish Priest should organise insurance coverage for the school. Consultation should take place with Catholic Church Insurances Ltd as to the appropriate insurance coverage required.

- **Public Liability**

The Diocese of Lismore has a Master Liability policy that grants indemnity in respect of the ownership and control and activities of all school owned or operated by the Diocese. Catholic Church Insurances Ltd issue this policy.

Regarding liability for staff, the policy grants indemnity to all employees of the Diocese for any actions that may result in a claim for negligence being made against a teacher or teachers. The Diocese provides this-protection under vicarious liability. Always provided that a teacher is performing his or her duties and is acting with the approval of the school Principal.

- **Advice On Entering Into Agreements**

Out of school activities sometimes involve an outside authority that seeks to impose legal conditions on a school in relation to indemnity. Schools are cautioned against signing any

document relating to public liability and should seek appropriate advice before entering into such agreements.

- **Voluntary Workers**

Each parish and/or school should ensure that they have a policy, covering people who work in a voluntary capacity for the school or parish. Catholic Church Insurances will provide a policy to cover authorised voluntary workers in respect of accidents.

- **Workers' Compensation**

All staff employed by the Diocese is insured under a Workers' Compensation policy with Catholic Church Insurances Ltd. Workers' Compensation insurance provides prescribed payment, compensates for loss of income, medical and other expenses and, where appropriate, permanent disability.

The essential feature of Workers' Compensation schemes is that the employee's entitlement is based, not on establishing fault in any other person, but on the mere fact that the employee was injured or became ill at or as a result of his or her employment. The parish/school need to arrange Workers' Compensation coverage for all people employed by them.