

**INQUIRY INTO BULLYING OF CHILDREN AND YOUNG
PEOPLE**

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Catholic Education Commission, NSW

**SUBMISSION TO THE NSW LEGISLATIVE
COUNCIL INQUIRY INTO BULLYING OF
CHILDREN AND YOUNG PEOPLE**

MARCH 2009

Executive Summary

1. In both what they teach and what they practise, Catholic schools support the principle of the dignity of every human person. On this principle schools have developed their pastoral care programs and discipline policies. For Catholic schools there is, and has always been, a moral and ethical imperative to act towards others in such a way that their dignity is respected and upheld. Bullying violates the fundamental principles of human dignity and ethical behaviour. There is also a legal requirement for schools. No non-Government school can be registered to operate in NSW unless it is clear to Government authorities that it can ensure that education of students takes place in a safe and supportive environment.
2. Catholic schools currently employ a wide variety of programs and resources to reduce the incidence and effects of bullying. All Catholic Schools have incorporated the recommendations of the National Safe Schools Framework into their Discipline and Pastoral Care policies and procedures. As well as explicitly treating bullying, most policies also address the more typical instances where bullying can be manifest, namely racism and homophobia. Of particular importance in the context of student safety is the relatively recent phenomenon of cyber-bullying. Clearly, it is necessary to extend school policies on bullying and harassment to include reference to cyber-bullying and Catholic school authorities have been vigilant to ensure that this has been done. Indeed, CEC NSW has developed a model policy on internet safety for Catholic schools.
3. CEC NSW affirms to the Parliamentary Inquiry that schools can best address bullying, violence and associated issues and can provide a safe, supportive learning environment for their students, by: (1) responding to students' needs, (2) building positive relationships, including fostering of family and community links and (3) promoting student wellbeing,

1. Role of Catholic Education Commission, NSW

1.1 The Catholic Education Commission (CEC NSW) is the body responsible to the Catholic Bishops of NSW /ACT for the coordination and representation of NSW Catholic schools at the State level. The Commission also provides leadership in Catholic education, through service to dioceses, religious congregations and parents. It functions through consultation with Diocesan Directors, Religious Institutes, Principal and parent associations.

1.2 Responsibility for the direct management of Catholic schools in New South Wales rests with the Catholic Schools' Authorities (under the canonical authority of the Diocesan Bishop) and with Religious Congregations. In effect, the Commission has no authority to become involved in the administration of any diocesan system of schools or of individual schools, be they part of a diocesan system or schools of a Religious Institute.

1.3 In NSW there are currently 583 Catholic schools, enrolling a total of 239,274 students. Statistical details in respect of Catholic Schools and their enrolments are available from the CEC NSW website www.cecnsw.edu.au.

2. The Catholic School and the Dignity of the Human Person

2.1 In both precept and practice Catholic schools support the principle of the dignity of every human person. This fundamental tenet of Christian behaviour and its implications are reiterated in official Church documents. For example:

- Human beings are created in the image of God.¹
- The human person is central to the educational project of the Catholic School;²
- The sanctity of life is to be respected in every human person.³
- God's love, the dignity of the person and the sacredness of life are inextricably united.⁴

¹ Vatican II, Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes* (1965), §12, retrieved from http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html

² The Sacred Congregation for Catholic Education, *The Catholic School on the Threshold of the Third Millennium*, (1997), § 9, retrieved from http://www.vatican.va/roman_curia/congregations/ccatheduc/index.htm

³ John Paul II, *Evangelium vitae* (1995), § 2, retrieved from: www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html

⁴ *ibid.*

- Christian teaching attributes to the human person the dignity of a child of God whose expectations must therefore be defended.⁵
- Education is not simply a matter of imparting knowledge: genuine education promotes human dignity.⁶

3. A Continuing Priority

3.1 It is clear that Catholic education in keeping with the above directives has consistently maintained and advocated these values. Pastoral Care programs and Religious Education programs have been developed in accordance with the positive approach predicated by belief in human dignity. The same values influence the development of discipline policies.

3.2 For Catholic schools the inherent emphasis on the spiritual development of each child directs whole school practice to focus on the psychological wellbeing of students.

4. The nature of the challenge

4.1 CEC NSW has been a long term supporter of the MCEETYA strategy entitled *Bullying No Way*.⁷ The website devoted to exploring this strategy is itself a demonstration of the complexity of the issues associated with bullying. Having noted this, it is fair to assert that one of the most difficult issues is the lack of clarity as to which particular behaviour or constellation of behaviours actually constitutes bullying. Some would include behaviour which could under some circumstances be termed merely irritating; others would exclude such behaviour from the definition, choosing instead to move further towards that section of the continuum characterised by what is physically or psychologically threatening. The World Health Organisation does not provide a definition of bullying. Its definition of violence, however, encompasses the *[i]ntentional use of physical force or power, threatened or actual against oneself, another person, or against a group or community that either results in, or has a high likelihood of resulting in injury death, or psychological harm, maldevelopment or deprivation*⁸

⁵ The Sacred Congregation for Catholic Education, *Lay Catholics in Schools: Witnesses to Faith* (1982), §18, retrieved from http://www.vatican.va/roman_curia/congregations/ccatheduc/index.htm

⁶ *ibid.*, §55

⁷ <http://www.bullyingnoway.com.au/>

⁸ WHO, *World Report on Violence and Health*, 2002, p.5. Retrieved from http://whqlibdoc.who.int/publications/2002/9241545615_chap1_eng.pdf

4.2 The breadth of the spectrum of behaviour which can be classified as bullying is manifest in the recently published information booklet circulated to members of the Lismore electorate which addresses the verbal, physical, social, psychological, sexual and technological manifestations of bullying.⁹

5. Response Requirements

5.1 There is and always has been a moral and ethical imperative to act towards others in such a way that their dignity is respected and upheld. As well, there is a legal requirement for schools to ensure that education of students takes place in a safe and supportive environment. No non-Government school can be registered to operate in NSW unless it is clear to Government authorities that it can provide “*a safe and supportive environment by having in place policies and procedures that provide for student welfare*”.¹⁰

5.2 In addition, the *Commonwealth Disability Discrimination Act (1992)* under its standards for education renders unlawful any conduct that amounts to the harassment of a student who has a disability.

5.3 This means in effect that school authorities are to take reasonable steps to ensure that *the risk of harm is minimised and students feel secure*. This includes protection from *violence, physical threats, verbal abuse, threatening gestures, sexual harassment and racial vilification*. Furthermore schools are required to provide an environment in which

- students are treated with respect and fairness by teachers, other staff and other students;
- members of the school community feel valued;
- positive support and encouragement are provided;
- non-discriminatory language and behavioural practices are defined, modelled and reinforced;

5.4 To achieve these ends, schools are required to have in place policies and procedures in relation to certain non-negotiable aspects of compliance:

- codes of conduct with specific reference to expectations and responsibilities of students and staff;
- behaviour management;

⁹ George, T., *Bullying . . . let's stamp it out*, 2009, *passim*.

¹⁰ Board of Studies NSW, *Registration Systems and Member Non-Government Schools (NSW) Manual*, updated March 2008, pp. 50-51.

- pastoral care;
- complaints and grievance procedures.¹¹

5.5 There is a wide variety of programs and resources available to reduce the incidence and effects of bullying. A ‘joint venture between the Catholic Education Office Melbourne (CEOM) and the University of Melbourne’s Faculty of Education, for example, focuses on student wellbeing and features articles and resources about student wellbeing, including ideas about countering cyber bullying’.¹² In Western Australia the *Friendly Schools and Families Program*, based on research at Edith Cowan University seems to have the potential for success.¹³ The *Australian Council for Educational Research* has produced a video resource based on Australian research with over 3000 students between the ages of 8 to 16 and over 50 teachers, intended to raise awareness and promote discussion of the issue of bullying in schools.¹⁴

5.6 *Bullying. No way!* is another resource created by Australia's educational communities, namely ‘State, Territory and Commonwealth Government education departments, and Catholic and independent education sectors, students, staff, parents, agencies, education officers and community members from schools around the country.’ This particular initiative is dedicated to creating “*learning environments where every student and school community member is safe, supported, respected, valued — and free from bullying, violence, harassment and discrimination*”.¹⁵

5.7 Furthermore, the Commonwealth Government has engaged in several relevant initiatives utilised by NSW Catholic schools, among them being:

1. an information booklet and video intended to address bullying among children aged 4-8. Designed for preschool carers, kindergarten and primary school teachers, this resource ‘outlines current ideas and approaches and makes suggestions on how bullying among young children can be prevented or reduced’.¹⁶ A parallel publication is available

¹¹ *ibid.*

¹² <http://uninews.unimelb.edu.au/view.php?articleID=4636>

¹³ *Friendly Schools and Families: an evidence-based bullying reduction program*, 2008, retrieved from <http://www.friendlyschools.com.au/>

¹⁴ See <http://shop.acer.edu.au/acer-shop/group/HV/59;jsessionid=E5CA5ADB4FB469D2D6A9A88263319F27>

¹⁵ <http://www.bullyingnoway.com.au/default.shtml>

¹⁶ See Commonwealth of Australia, *Bullying among Young Children: a guide for teachers and carers*, 2003, retrieved from

[http://www.crimeprevention.gov.au/agd/WWW/rwpattach.nsf/VAP/\(1E76C1D5D1A37992F0B0C1C4DB87942E\)~Bullying+Teachers.pdf/\\$file/Bullying+Teachers.pdf](http://www.crimeprevention.gov.au/agd/WWW/rwpattach.nsf/VAP/(1E76C1D5D1A37992F0B0C1C4DB87942E)~Bullying+Teachers.pdf/$file/Bullying+Teachers.pdf)

for 'parents who are worried because their child is being bullied or because their child is bullying others'¹⁷.

2. the *National Safe Schools Framework* (NSSF) which consists of a set of nationally agreed principles for a safe and supportive school environment and includes appropriate responses that schools can adopt to address issues of bullying, violence, harassment, and child abuse and neglect.¹⁸ In particular, this framework encourages the positive approach to bullying behaviour by stressing the need to value diversity, promote wellbeing, develop attitudes of independence, justice, cooperation and responsibility and value a safe and supportive learning environment.¹⁹

5.8 The principles on which the NSSF is founded are universal, namely:

- students have a fundamental right to learn in a safe, supportive environment and to be treated with respect;
- an essential function of all schools is to promote and provide a supportive learning environment in which all students can expect to feel safe;
- community expectations demand that school authorities;
- ensure the safety of students;
- support students;
- have clear, transparent and explicit policies and programmes in this regard.

5.9 Accordingly, schools must

- affirm the right of all school community members to feel safe at school;
- promote care, respect and cooperation, and value diversity;
- implement policies, programmes and processes to nurture a safe and supportive school environment;
- take action to protect children from all forms of abuse and neglect.

¹⁷ Commonwealth of Australia, *Bullying among Young Children: a guide for parents*, 2003, retrieved from : [http://www.ag.gov.au/agd/WWW/rwpattach.nsf/VAP/\(1E76C1D5D1A37992F0B0C1C4DB87942E\)~Bullying+Parents.pdf/\\$file/Bullying+Parents.pdf](http://www.ag.gov.au/agd/WWW/rwpattach.nsf/VAP/(1E76C1D5D1A37992F0B0C1C4DB87942E)~Bullying+Parents.pdf/$file/Bullying+Parents.pdf)

¹⁸ Australian Government Department of Education, Employment and Workplace Relations, *National Safe Schools Framework*, MCCETYA Taskforce on Student Learning and Support Services, 2003, pp.5-10, retrieved from: http://www.dest.gov.au/sectors/school_education/publications_resources/profiles/national_safe_schools_framework.htm. This framework is currently under review, see DEEWR, letter ref ES08/62208, 27/02/09, indicating that the existing NSSF will be examined and updated to incorporate new and emerging issues and examine the linkages with other child welfare and wellbeing issues; current Commonwealth and state and territory legislation; the role of parents/carers in creating a safe and supportive school environment; linkages with existing jurisdictional based policy and curriculum; and raising awareness of covert bullying behaviours.

¹⁹ *ibid.*

5.10 The framework proposes strategies to ensure student safety that are applicable to staff, parents and students. Positive student management, promotion of strategies to deal with prejudice and discrimination and processes which promote independence are among those recommended for staff. Students, on the other hand are to be taught to recognise abuse, report it, understand the use of power in relationships and learn how to engage in healthy relationships.

5.11 As part of this program schools are expected to encourage all members of their school community to take a proactive stand against bullying and violence, develop procedures to encourage early identification of incidents, teach students to seek immediate help when bullying is witnessed or experienced and encourage parents to identify and report instances of bullying and harassment.²⁰

6. Catholic Sector Response Strategies

6.1 All Catholic Schools have incorporated the recommendations of the NSSF into their Discipline and Pastoral Care policies and procedures. In addition, NSSF principles are an intrinsic part of Religious Education programs. Each year CEC NSW monitors the implementation of the Framework in dioceses and congregational schools. Reports received by CEC NSW personnel indicate that

- Catholic schools are committed to fostering the dignity, self-esteem and integrity of each person and to working with those who experience disadvantage.
- Schools implement a range of initiatives to support students among them being:
 - anti-bullying policies;
 - pastoral care teachers and coordinators;
 - counselling support to schools to assist in addressing issues such as bullying;
 - a school review process which regularly audits anti-bullying and harassment policies and procedures;
 - a review of how schools address issues such as harassment and bullying, particularly in relation to handling complaints from parents and/or students in this regard;

²⁰ Australian Government Department of Education, Employment and Workplace Relations, *National Safe Schools Framework*, MCCETYA Taskforce on Student Learning and Support Services, 2003, pp.5-10, retrieved from: http://www.dest.gov.au/sectors/school_education/publications_resources/profiles/national_safe_schools_framework.htm.

- peer support programs;
- a requirement for schools to document incidents of bullying and provide evidence of follow up;
- student representative councils;
- student leadership programs;
- restorative justice programs;
- explicit education in child protection matters, anti-bullying and anti-violence through the PD/H/PE curriculum and Pastoral Care programs;
- professional development courses for teachers such as *Re-thinking a Supportive School Environment*;
- information evenings and seminars on child protection matters, including anti-bullying programs that include parents;
- Information on the procedures and guidelines for the reporting of bullying;
- emphasis on developing positive and supportive environments;

6.2 Catholic school authorities judge the effectiveness of these initiatives by surveys to assist staff and students in identifying and responding to bullying concerns. There is an indication that there has been an increase in the numbers of incidents of student bullying reported but this should be seen as evidence of a heightened awareness of the problem rather than an escalation of it.

6.3 Examination of a typical example of the NSW Catholic school policies designed to promote student safety indicates that a particular system of schools is committed to the development of their schools as faith and educational communities that

- *take as their foundation the person and Gospel of Jesus Christ;*
- *integrate faith with life and contemporary culture;*
- *foster the dignity and development of each person.*²¹

²¹ Catholic Education Office, Sydney, *Countering Harassment of Different Kinds (Including racism, sexual harassment, homophobia and bullying)*, 2008, p.1 Retrieved from: <http://www.ceosyd.catholic.edu.au/cms/webdav/site/curriculumonline/shared/Pastoral%20Care/Countering%20Harassment%20of%20different%20kinds.pdf>

6.4 Having defined bullying as “a pattern of oppressive behaviour by a person or group over a less powerful other”,²² the writers of the policy cited above, using as their basis Australian research findings, claim that

- about one in seven school students is continually victimised;
- approximately 5 per cent of the student population are bullies;
- one in two children will experience some form of bullying;
- boys are victims more than girls;
- fourteen per cent of bullying last six months or more;
- victims have lower self-esteem;
- bullies do not necessarily have low self-esteem;
- the most common form of bullying is teasing related to appearance;
- for boys there is a rise in victimisation from ages 10 to 13 years;
- for girls there is a decrease from ages 10 to 13 years;
- most students want bullying to stop;
- all students over the age of 14 become less sympathetic to victims;
- real bullying does not sort out naturally;
- bullying is either reinforced or challenged by the atmosphere which exists in an organisation.

²² *ibid.*, p.8

6.5 Accordingly anti-bullying policies recommend:

- raising awareness of all groups in the school community regarding the nature, extent and impact of bullying;
- further development and promotion of a non-violence, anti-bullying stance in the context of a school-wide philosophy;
- collaborative development of a school-wide policy which identifies appropriate involvement by:
 - school personnel
 - parents
 - students

6.6 In particular it recommends the development of strategies for

- responding effectively to a bullying incident
- appropriate supervision of playground ‘hot spots’
- processing student grievances
- achieving conflict resolution rather than just conflict management.²³

6.7 As well as explicitly treating bullying, this particular policy treats some of the typical instances where bullying can be manifest, namely racism and homophobia. By providing a legislative, ethical and school management foundation for developing strategies to deal with bullying and victimisation of these types, this document seeks to extend the scope of strategies to achieve a safe and supportive environment for students.

6.8 In addition to policy responses Catholic sector remediation programs have been developed. Examples include the Marist Youth Care “Restorative Practices” programs for schools. The details of this program are accessible at <http://www.maristyc.com.au/restorative.htm>.

²³ *ibid.*, pp 8-10.

Cyber bullying

6.9 Of particular importance in the context of student safety is the relatively recent phenomenon of 'cyber- bullying' which the NSW Police Department defines as:

the use of e-mail, instant messaging, chat rooms, pagers, cell phones, or other forms of information technology to deliberately harass, threaten, or intimidate someone.

6.10 *NetAlert*, the initiative of the Australian Government designed to provide a safe online environment for all families, especially children, provides useful tools and resources designed to assist families and schools achieve this end.²⁴ Clearly, it is necessary to extend school policies on bullying and harassment to include reference to cyber-bullying.

6.11 Catholic school authorities have been vigilant to ensure that this has been done. Incidents of cyber-bullying are dealt with in a firm, positive, caring and supportive manner. On the other hand, it is clear that the appropriate response to some instances of cyber-bullying, for example defamation or the use of sexually-explicit material, may require the intervention of police. CEC NSW has itself developed a model *Internet Safety Policy for Catholic schools*, (see *Appendix 1*). Catholic schools have been specifically advised (see *Appendix 2*) of those cyber bullying activities which are actually crimes under Australian Law.

²⁴ See <http://www.netalert.gov.au/home.html>. Information available on this site includes

- signs that children being bullied online
- strategies for dealing with bullies
- advice as to where to obtain help

7. Conclusion: Offering a Way Forward

7.1 It is clear that Catholic systemic and congregational schools have embraced the recommendations of the *National Safe Schools Framework* and have incorporated them into their pastoral care and student safety programs. It is clear, as well, that in doing so, Catholic schools integrated Catholic traditions and values with the key elements of this framework.

7.2 What is asserted in the *Bullying. No Way!* resource with regard to Australian schools is eminently true of Catholic schools – namely that they are

- embracing opportunities to talk out, engage with and challenge the issues of bullying, harassment, discrimination and violence;
- talking about the issues and developing shared understanding of the underlying factors that maintain these behaviours;
- designing innovative, local-level, whole-school initiatives.

7.3 In addition

- legislation and policies are in place to raise awareness of the many forms of harassment and discrimination;
- research is creating an evidence base for action.²⁵

7.4 Thus in an effort to reduce the effects of bullying and to achieve high levels of student well-being the CEC NSW endorses the following strategies based on key information from the literature about bullying.²⁶

- Education of school staff about bullying and harassment through in-servicing, with a focus on what is happening between students in the school.
- The development of specific policy to counter bullying in the school, employing a consultative approach involving students and parents.
- The use of the school curriculum and especially Religious Education Curriculum to provide lessons and activities designed to help children develop knowledge,

²⁵ <http://www.bullyingnoway.com.au/issues/where-now.shtml>

²⁶ Key information from the Literature about Bullying, retrieved from:

www.dest.gov.au/sectors/school_education/publications_resources/indexes/documents/research_summary_rtf.htm

attitudes and skills that will help them deal more effectively with issues of bullying.

- The empowerment of students to assist in reducing conflict, for example, through the use of programmes to train students to act as peer mediators, peacekeepers, peer supporters, peer counsellors, buddies or members of anti-bullying committees working with school authorities.
- Clarification of the roles of staff members in countering bullying in schools.
- Working closely with parents to prevent bullying.
- Addressing cases of bullying that arise, taking into account the nature and severity of the problem and the likely effectiveness of possible modes of intervention.
- The clear documentation of steps that have been taken in particular cases together with outcomes in order to facilitate evaluation and justify possible modification in approaches.
- A focus on restoring the well-being of students who have been psychologically damaged by continued harassment, especially through providing adequate counselling and social support.
- Collaboration with appropriate agencies with a related or complementary function, for example, the police and mental health organisations.

7.5 In association with these strategies it has been recommended that schools

- (i) engage in a systemic review of preventative interventions of evidence based programs;
- (ii) focus on pre-service teacher training regarding the issue of violence prevention and the education of new teachers regarding suitable programs;
- (iii) review the crisis management plan for managing violent incidents and school bullying;
- (iv) showcase exemplars from schools and communities which are addressing bullying and violence

- (v) focus on the early years and the identification of the small group of students at risk of violence and the policy and programs that are currently in place or that can be implemented.²⁷

7.6 By responding to students' needs, including spiritual needs, by building positive relationships, including fostering of family and community links, and by promoting student wellbeing, schools can best address bullying, violence and associated issues and can provide a safe, supportive learning environment for their students.

²⁷ See P. Slee and B. Spears, 'Key Messages from the International Research on Violence in Schools' – an overview of the issues raised at the Fourth World Conference: Violence at School and Public Policies, Lisbon 2008 (http://www.fnh.utl.pt/icvs2008/ingles/index_ingles.htm), unpublished paper (2008).

APPENDIX 1.

NOTES FOR THE DEVELOPMENT OF A RESPONSIBLE USE OF ICT FRAMEWORK FOR CATHOLIC SCHOOL AUTHORITIES ARISING FROM THE 28 MAY 2008

CEC NSW RESPONSIBLE USE OF ICT FORUM

Appendices:

Sample User Agreements/Contracts (developed by Minter Ellison)

- for teachers

- for students

Preamble

- Technology is provided at school for 'educational use' and in the context of the purpose and ethos of a Catholic school

The Internet is the pervasive cultural influence of our time. It will continue to grow and evolve at a dizzying rate and the possibilities which this evolution will bring to us, as individuals, families, and Church are as yet undreamt of. We should not be afraid to embrace those opportunities wholeheartedly. But there are dangers on the Internet which can affect the physical, spiritual, and emotional safety and well-being of both children and adults.

Pastoral Letter from the Catholic Bishops of Australia, April 2008:

<http://www.acbc.catholic.org.au/documents/200804271910.pdf>

General Principles:

- Need for a whole of school education program about safety, personal responsibility, respect for others.
 - Therefore must be linked to:
 - Enrolment requirements / conditions
 - Student well-being initiatives/policies
 - Discipline policies and practices
 - Pastoral Care policies and practices
 - Staff development and code of conduct
 - Communications with parents

- Need to balance educational value with the possible negative uses of technology while considering the different contexts in which they can be used.
- Importance of school community engagement: staff, students (in age appropriate ways) and parents in the process of education, collaboration, together with general acceptance of policy aims, requirements and benefits.
- Scope of policy needs to encompass broad definitions of services and devices so that new developments are not explicitly or implicitly excluded.
- Ethical Aspects:
 - Need to stress ethical use and education rather than just increased blocking/filtering, while acknowledging the legitimate uses of blocking and filtering.
 - An emphasis on corrective behaviour rather than just mandated restrictions.
- Catholic ethos:
 - Schools should ensure that authorised use of computer facilities and external networks, including internet, relates to school philosophy and is consistent with those principles, regulations and laws which relate to the privacy and safety of school students and staff.

General Policy Advice:

- importance of "ownership" of the policy by the whole school community, including students
- *Write the policy to highest standard and then assist teachers to achieve those standards*
- *Include students, teachers and parents in the policy development process as a community*
- *Parents need to be actively involved in the educational partnership with staff, students and parents*
- Avoid blanket statements such as "violate Commonwealth, State and Territory laws" since this will be impossible for people to interpret correctly
- The preferred approach is "reasonable endeavours" and expectations appropriate to a Catholic school

What a Computer Use Policy should include:

- an outline of what uses are permitted and forbidden without being too prescriptive
- a statement that improper use may pose a threat to security, privacy, and copyright
- consequences for improper including disciplinary action
- General

- a statement of what information is logged and who has access to the logs
 - an outline of how compliance will be monitored and audited (i.e. wider than just computer surveillance could include monitoring by teachers and the monitoring of student and teacher use
 - an outline of the action staff can take if a breach of school policy is identified
- Workplace Surveillance ACT (NSW)
 - type of surveillance
 - how surveillance will be carried out
 - when surveillance will commence
 - whether surveillance will be continuous or intermittent
 - whether surveillance is for a specific limited period or ongoing
 - when and what email and websites will be blocked
 - what locations (rooms) will be subject of video surveillance (signs must be posted). Surveillance is not allowed in toilets and change rooms.

Communication of policy:

- All stakeholders must be fully informed (teachers, students and their parents) about the policy and specific aspects including that their internet usage may be monitored
- At time of employment/enrolment and regularly thereafter
- For students at least at K, 3, 7, 11

Contracts and User Agreements:

- All policies and agreements to be publicly available, i.e. intranet
- Need to ensure policies are made available directly to students and staff
- The enrolment contract must clearly state the school's principles and expectations in respect of internet use
- Student user contracts should be developed
- How often does the IT user agreement need to be re-signed?
 - If policy stays the same there is no need to reissue unless significant changes are made
 - Publish student agreement in school diary or similar publications

Appropriate Behaviour:

- Reflect Bishops' statement on respecting our human dignity and the dignity of others
- Use of the internet and devices must reflect the standard behaviour required by a Catholic school
- What is acceptable and what is not is to be judged in the context of a Catholic school
- Interaction and conduct online must show the same respect of others as is expected offline

Circumvention and Proxy Filtering:

- Specific rules should be included in codes on the use of proxy or circumvention devices
- Need for a combined approach

Personal Devices:

- Schools should have policy statements regarding searching bags and lockers

- Personal devices brought into school or to school activities may be taken and accessed if it is believed that:
 - there has been or may be a breach of the school rules or a school policy; or
 - there may be a threat of harm to *themselves or others* or system security

- If unacceptable files and/or content is found those files/content may be deleted and disciplinary action may follow.

- If a student connects a personal device to the school network that device may be monitored and evidence of its use may be kept by the school

Specific advice regarding ICT and personal devices in a Boarding House:

- **To be developed**

Elements of a Whole School Approach:

Key elements identified were:

- Education, education, education
- Communication with staff, students and parents
- Protective behaviours
- Publicly accessible user policies

Other comments were:

- *Part of every day curriculum/ Part of every day communication. Publish via various communications and bulletins*

- *Kids in appropriate situations and timing - part of the responsibility of the teacher as part of the ICT learning*
- *Part of pastoral care program - too much in these programs - include in all curriculum areas*
- *Invite police as part of pastoral care - year 8 classes. Need for ongoing internet safety program*
- *The standards of conduct are to be those expected in a Catholic school*

Other relevant documents/developments in relation to school accountabilities (Commonwealth):

- National Safe Schools Framework (current)
- Values Framework (current)
- Student Well-being Framework (being developed by the Commonwealth will be overarching framework)
- Family School Partnership Framework (being finalised)
- NSW Board of Studies School/System Registration Manual: Registration requirements for schools Part 5.6 "Safe and Supportive Environment"

Other issues not specifically raised but may be useful in a policy:

Environmental and Occupational Health and Safety Issues for example: tag lines on emails that ask people to consider the environment before printing emails etc.

The School

COMPUTER USE POLICY FOR SCHOOL STAFF

INTRODUCTION

This document sets out the school's policy for use of the schools' computer system and devices.

'Computer system' includes any computer of the School; any information held on the School's computers (whether or not the school owns that information), the local network, the public network, internet and email.

'Devices' means devices such as laptops, iPods and mobile phones, regardless of who they belong to, that are brought onto school property or to school activities, or that are connected to the school's network or facilities.

CONSEQUENCES OF BREACH OF THIS POLICY

All staff must comply with this policy. Departure from compliance with this policy may only be authorised by the Principal.

Use of the school's computer system or devices in a manner inconsistent with this Policy or in any other inappropriate manner may result in disciplinary action. Disciplinary action may include termination of employment.

ACCOUNTABILITY AND CARE OF EQUIPMENT

Staff must use the school's equipment carefully and follow all instructions about how to use it and how to take care of it.

Staff may be issued with a unique user name and password. Staff are solely accountable for all actions performed under their username and password. Staff must not tell anyone their password, except as required by the school. Staff must not access another person's email or internet account without that person's permission or the permission of the school.

Staff should remember that electronic communications may not be private and may easily be copied, forwarded, saved, intercepted and archived. The audience of an electronic communication may be unexpected and extremely widespread.

If a staff member is likely to be absent from work for any lengthy period of time, they should make arrangements for their emails to be accessible by the school or ensure that an 'out of office' reply is automatically set. This automatic reply will alert those trying to contact the staff member that they are away from work and that queries should be directed to a nominated colleague.

Staff should delete old or unnecessary email messages and archive email messages they need to keep. This is because the retention of messages fills up large amounts of storage space on the network and can slow down performance.

PERMITTED AND PROHIBITED USE

The school's computer system and devices are tools that must only be used:

- for the purposes of the school, except as otherwise directed by the school or otherwise set out in this policy; and
- in an appropriate and lawful manner.

The school may, as a matter of discretion, allow the school's computer system to be used for other purposes, so long as this does not:

- contravene other parts of this policy; or
- adversely impact on performance of work duties.

For example, as a matter of discretion, the school currently permits limited use of its internet and email facilities to send and receive personal messages and to perform personal research. Excessive use of email or internet facilities for personal reasons may result in limitation or removal of access to the school's computer system.

The school's computer system and devices must not knowingly be used to:

- send, forward, attach, upload, transmit, download, link to or store any images, content, links or material that:
 - is, or may be construed to be, defamatory, harassing, threatening, vilifying, racist, sexist, sexually explicit, pornographic, or otherwise offensive;
 - is, or may be construed to be, insulting, vulgar, rude, disruptive, derogatory, harmful or immoral;
 - harasses or promotes hatred or discrimination based on any unlawful grounds against any person;
 - contains any virus, worm, Trojan or other harmful or destructive code; or
 - may injure the reputation of the school or cause embarrassment to the school;
- send material relating to the manufacture, use, sale or purchase of illegal drugs or dangerous materials or to any other illegal activity;
- spam or mass mail or to send chain mail;
- infringe the copyright or other intellectual property rights of another person;
- game, wage or bet;
- perform any activity using an anonymous or misleading identity;
- engage in any other illegal or inappropriate activity;
- access the internet using another person's name or account;
- gain, or attempt to gain, unauthorised access to any website or to any person's servers, networks or databases;
- download excessive quantities of data, other than in the ordinary course of performing duties for the school; or
- compromise the school's computer system.

Software (licensed, shareware, freeware, evaluation or otherwise) including system, application or data files, may only be downloaded in accordance with the instructions of the school.

INTELLECTUAL PROPERTY

The school is the owner of copyright in all email messages created by staff as part of their work for the school.

Staff must not infringe the intellectual property rights of other people.

Material staff want to distribute or copy may be subject to copyright. This includes files staff may wish to download, such as images, cartoons and music. Copyright material owned by other people must not be distributed or copied without the permission of the copyright owner, unless authorised by the *Copyright Act 1968* (Cth) as a fair dealing, under the educational statutory licence or another exception.

MONITORING

All actions performed using the school's computer system or a device may be monitored by the school or by another person on the school's behalf. All emails sent and received using the school's computer system may be recorded and may be archived indefinitely.

Staff should expect that data and logs of web usage will be reviewed by the school or another person acting on the school's behalf and archived.

This recording and monitoring of emails, data and web usage may be continuous and ongoing.

Whilst the school respects each person's right to privacy, the school needs to have access to its computer system and devices. By using the school's computer system and/or devices the staff consent to the school reading any email and other data, including personal emails or documents.

Devices may be taken and access if it is believed that:

- there has been or may be a breach of a staff member's employment or engagement contract or a school policy; or
- there may be a threat of harm to a person or system security.

If unacceptable files and/or content is found those files/content may be deleted.

PREVENTED EMAIL DELIVERY AND INTERNET ACCESS

The school may prevent emails from entering or leaving the network if it considers it appropriate.

The school may also prevent access to internet websites as it considers appropriate.

The school might consider it appropriate to prevent email delivery or internet access if the material negatively impacts on the network or if it considers the content inappropriate.

The school may take measures to stop spam email being delivered into an individual's email account. However the technology that attempts to identify email as spam is not perfect. It is possible that a legitimate email may be incorrectly identified as spam and, as such, not delivered to the intended recipient.

GENERAL

The terms and prescribed conduct described in this policy are not intended to be exhaustive, nor do they anticipate every possible use of the school's computer system or devices. Staff must act with caution and take into account the underlying principles of this policy.

This policy may be updated or revised from time to time.

DRAFT

The School

COMPUTER USE POLICY FOR STUDENTS

What is this document?

This document sets out the school's policy for your use of:

- the school's computer system, which includes the school's computers and all hardware, software, networks, internet and email.
- devices.

What is a Device?

A device means any device including laptops, play stations, iPods and mobile phones regardless of to whom they belong, that are brought onto school property or to school activities, or that are connected to the school's network or facilities..

What happens if I don't comply with this policy?

If you don't use the school's computer system or devices in accordance with this policy the school may take disciplinary action, including limiting or removing your access to the school's computer system, or even suspending or permanently excluding you from the school.

What are my responsibilities?

Students must:

- use the school's equipment carefully and follow all instructions about how to use it and how to take care of it;
- not tell anyone their password, except as required by the school;
- not access another person's email or internet account without that person's permission or the permission of the school;
- respect the rights and dignity of other people when using the school's computer system and devices.

What am I allowed to do?

Students can use the school's computer system and devices:

- only for school related programmes and activities, unless otherwise authorised; and
- in an appropriate and lawful manner.

What am I not allowed to do?

Students must not knowingly use the school's computer system or any device to:

- send, forward, attach, upload, transmit, download, link to or store any images, content, links or material that:
 - is, or may be, defamatory, harassing, threatening, racist, sexist, sexually explicit, pornographic, or otherwise offensive;
 - is, or may be construed to be, insulting, vulgar, rude, disruptive, derogatory, harmful or immoral;
 - contains any virus, worm, Trojan or other harmful or destructive code; or
 - may injure the reputation of the school or cause embarrassment to the school;

- spam or mass mail or to send chain mail;
- infringe the copyright or other intellectual property rights of another person;
- perform any activity using an anonymous or misleading identity;
- engage in any illegal or inappropriate activity;
- engage in cyber bullying;
- access the internet using another person's name or account;
- download software (licensed, shareware, freeware, evaluation or otherwise) other than as directed by the school;
- download excessive quantities of data, other than in the ordinary course of learning;
- use for an unauthorised purpose; or
- compromise the security of the computer system.

Will my use be monitored?

Yes. All actions performed using the school's computer system or a device may be monitored by the school or by another person on the school's behalf. All emails sent and received using the school's computer system may be recorded and may be archived indefinitely. Students should expect that logs of their email and web usage will be reviewed by the school or another person acting on the school's behalf and archived.

Can my device be taken and/or accessed?

Devices may be taken and accessed if it is believed that:

- there has been or may be a breach of the school rules or a school policy; or
- there may be a threat of harm to a student, another/others or system security.

If unacceptable files and/or content is found those files/content may be deleted, and disciplinary action may be taken. If the circumstances warrant the school may also pass the material to the police.

What else?

In general, you must act carefully, responsibly and with respect for others. If you feel unsure about what to do in a particular circumstance, or if something happens that you are not comfortable with, speak with a teacher.

APPENDIX 2

CATHOLIC EDUCATION COMMISSION
NEW SOUTH WALES
ABN 33 266 477 369

PO Box A169, Sydney South NSW 1235
9th Floor, Polding Centre, 133 Liverpool Street, Sydney NSW 2000
Telephone 02 9287 1555 Fax 02 9264 6308 Email commission@cecnsw.catholic.edu.au
Website <http://www.cecnsw.catholic.edu.au>

30 October 2007

(Ref: 202/07)

MEMORANDUM TO: Diocesan Directors of Education
Principals, Congregational Schools

FROM: Ian Baker

SUBJECT: **Indecent Filming by School Students**

You will be aware of recent incidents where school students have used mobile phones and video cameras to undertake indecent filming.

CEC NSW has been asked by various school Principals whether the school students involved may have committed any unlawful act in such situations, apart from acting in an immoral and unethical way.

Set out below are some key offences that might apply to students involved in incidents of indecent filming or similar activities.

1. Getting into someone's account and using it to send abusive emails

Offence: Unlawful access to protected data, section 308H Crimes Act NSW
Maximum penalty: two years

Offence: Intimidation, s.545AB Crimes Act NSW
Maximum penalty: five years and/or \$5,500

2. Taking a photo of X in the shower and sending it to everyone

Offence: Indecent Filming s.21G Summary Offences Act NSW
Maximum penalty: two years and/or \$11,000

Offence: Use of Carriage Service to Menace, Harass or Cause Offence -
Criminal Code (Cwth) s.474.17

Maximum penalty: three years

3. **Teasing, making fun of or spreading rumours about someone online**

Offence: Intimidation s.545B Crimes Act NSW

Maximum penalty: five years and/or \$5,500

4. **Flaming (ridiculing people in chatrooms)**

May give the aggrieved person grounds to commence civil action for defamation

5. **Harassing someone or making threats electronically**

Offence: Intimidation s.545AB Crimes Act NSW

Maximum penalty: five years and/or \$5,500

Offence: Criminal code (Cwth) s.474.15 - Use of Carriage Service to Make a Threat

Maximum penalty: 10 years (for death threat) or seven years (for threat of serious harm)

Source: NSW Police and Sydney Morning Herald 25 October 2007

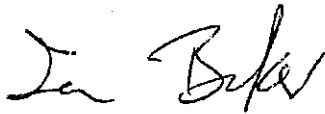
Beyond the above cited possible specific offences the following observations on possible unlawful acts should be noted:

- In NSW an indecent filming offence carries a maximum penalty of two years in gaol and an \$11,000 fine.
- The production, dissemination or possession of child pornography is an offence under the NSW Crimes Act, see Section 91H attached.
- Under Commonwealth Law an item is taken to be an item of child pornography if it is a document or other goods that depicts a person, or a representation of a person (who is, or appears to be) under 18 years of age and who is engaged in a sexual pose or sexual activity whether or not in the presence of other persons.

Disclaimer:

The above sets out general information only and does not constitute formal legal advice. When specific situations arise involving schools formal legal advice should be obtained.

Sincerely



Ian Baker
Director - Education Policy and Programs



New South Wales Consolidated Acts

CRIMES ACT 1900 - SECT 91H

Production, dissemination or possession of child pornography

91H Production, dissemination or possession of child pornography

(1) Definitions In this section:

"child pornography" means material that depicts or describes (or appears to depict or describe), in a manner that would in all the circumstances cause offence to reasonable persons, a person who is (or appears to be) a child:

- (a) engaged in sexual activity, or
- (b) in a sexual context, or
- (c) as the victim of torture, cruelty or physical abuse (whether or not in a sexual context).

"disseminate" child pornography, includes:

- (a) send, supply, exhibit, transmit or communicate it to another person, or
- (b) make it available for access by another person, or
- (c) enter into any agreement or arrangement to do so.

"produce" child pornography includes:

- (a) film, photograph, print or otherwise make child pornography, or
- (b) alter or manipulate any image for the purpose of making child pornography, or
- (c) enter into any agreement or arrangement to do so.

(2) Production, dissemination or possession of child pornography A person who produces, disseminates or possesses child pornography is guilty of an offence.

Maximum penalty: imprisonment for 10 years.

(4) Defences It is a defence to any charge for an offence under subsection (2):

- (a) that the defendant did not know, and could not reasonably be expected to have known, that he or she produced, disseminated or possessed (as the case requires) child pornography, or
- (b) that the material concerned was classified (whether before or after the commission of the alleged offence) under the Classification (Publications, Films and Computer Games) Act 1995 of the Commonwealth, other than as refused classification (RC), or
- (c) that, having regard to the circumstances in which the material concerned was produced, used or intended to be used, the defendant was acting for a genuine child protection, scientific, medical, legal, artistic or other public benefit purpose and the defendant's conduct was reasonable for that purpose, or
- (d) that the defendant was a law enforcement officer acting in the course of his or her official duties, or
- (e) that the defendant was acting in the course of his or her official duties in connection with the classification of the material concerned under the Classification (Publications, Films and Computer Games) Act 1995 of the Commonwealth.
- (5) Defence to possession of child pornography It is a defence to a charge for an offence under subsection (2) not involving the production or dissemination of child pornography that the material concerned came into the defendant's possession unsolicited and the defendant, as soon as he or she became aware of its pornographic nature, took reasonable steps to get rid of it.
- (6) Alteration of images A reference in this section to material that appears to depict or describe a person who is a child, or a person as referred to in paragraph (a), (b) or (c) of the definition of "child pornography", includes a reference to material that contains or displays an image of a person that has been altered or manipulated so that the person appears to be a child, or appears as referred to in any of those paragraphs, or both.²⁸
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²⁸ Retrieved from http://www.austlii.edu.au/au/legis/NSW/consol_act/ca190082/s91h.html