

INTRODUCTION

This issue of the *International Journal of Law and Education (IJLE)* contains an eclectic group of seven papers on various topics of interest to all those in our field. The common theme among all of the papers, all but one of which were presented at the Australia New Zealand Education Law Association (ANZELA) Conference in Melbourne, is the relationship between law and education in various levels of schooling. The first four papers examined issues involving the intersection of religion and education while the latter two focused on principals' knowledge of education law and alternative means of dispute resolution.

The first paper touching on religion was a comparative analysis of the rights of students who are subjected to long-term suspensions and or expulsions in non-public schools in Australia and the US. The next three papers examined issues involve the potential conflict between faith-based institutions and anti-discrimination laws in Australia and Canada.

"A Comparative Analysis of School Discipline and Procedural Fairness in Private Schools in Australia and the United States" by Joan Squelch and Charlie Russo is an accurate description of their joint effort. This article reviews the levels of procedural fairness/ procedural due process students facing long-term suspensions of expulsions receive in non-public schools in Australia and the US. After examining practices in both nations, Squelch and Russo offer specific guidelines for discipline policies, concluding with the exhortation of the need for consistency in providing procedural fairness for students in non-public schools facing suspensions and/ or expulsions.

Keith Thompson's "Ethos schools in Australia and the 'new Australian Religious Discrimination Act 2020'" comments on the second draft of the Religious Discrimination Act. This article offers brief overview of the scope of the *Bill*, identifies the issues that have engaged the most general concern, and then comments on the provisions most relevant to ethos schools, particularly as they relate to the rights of persons in the LGBTI community should they wish to work in ethos schools. Thompson concludes that religious freedom in Australia will be better protected after the *Bill* is passed and that ethos schools will not notice many changes in the way they currently do business.

"Religious School Employment Discrimination Exemptions: A Possible Resolution" by Andrew Knott examines religious exemptions in relation to employer conduct in Queensland and Australian Law. The background is that it is common for exemptions, including in employment, in anti-discrimination legislation for religious bodies to be based on concepts such as "conforms to the doctrines of that religion" or "discriminates in good faith in order to avoid injury to the susceptibilities of adherents of that religion or creed." Knott adds that for almost 15 years Queensland's *Anti-Discrimination Act 1991* has been based on concepts much more closely linked to conduct in the workplace as he analyses this provision and its underlying rationale. Knott then suggests that the

respective needs of employers and employees are more appropriately met by such a test and wonders whether, if there were no religious exemption provision, the gap would be filled by employees' duty of loyalty or fidelity.

Kent Donlevy and Christian D. Elia's "Gender Transitioning, Canadian Catholic Schools, and the Canadian Charter of Rights and Freedoms" examines the relationship between Canada's constitutionally protected Catholic separate schools and private religious schools in relation to those who are transgender. Donlevy and Elia found that while constitutionally protected Catholic separate schools in three Canadian provinces may legally discriminate, other schools may not. While it is true that the Canadian Charter of Rights and Freedoms protects the right to freedom of religion and belief, these rights must be balanced by its limitations on fundamental freedoms to what can be demonstrably justified in a free and democratic society, the authors conclude that officials in private schools, whether religious or non-sectarian, are unlikely to be able to discriminate against those who are transgender.

"Education Law, schools and school principals: Findings from a mixed methods study of the impact of law on Tasmanian school principals," by Allison Trimble, is based on her dissertation as the 2018 ANZELA Anne Shorten Doctoral Thesis Award winner. Her study reports on recent she conducted in Tasmania, Australia, investigating the impact of legal issues on school principals across the government, Catholic, and Independent school sectors. While the findings of her study were consistent with earlier research on this topic in Australia with regard to the knowledge and awareness of school principals, Trimble identified new issues. Among these new key findings were that the legal decisions principals make may be influenced by their beliefs and legal consciousness about the law as well as their legal knowledge of the law and of the impact of internal and external organisational environments on legal decision-making in schools.

Tryon Francis' "Principals, Alternative Dispute Resolution, and Procedural Fairness in Australian Public Schools" examines whether public school principals in Australia can rely on alternative dispute resolution (ADR) to resolve conflicts in accordance with the rules of procedural fairness at the school level. Francis examines situations in which public school principals may be able to rely on mediation as a form of ADR while still providing complainants with procedural fairness by affording them a say in the mediation process and a possible outcome on which both parties can agree. After providing a summary from preliminary interview data with in-house Department of Education New South Wales lawyers about situations wherein mediation may work, the article concludes with a general suggestion as to why ADR may be able to assist public school-based administrators to resolve conflicts in their schools.

"Screen-Centred Schools: The New Wild West," by Mary Redmayne examines, the timely issue of potential legal liability for educators and Boards of Trustees in light of the growth of screen-centred learning in schools in Australia and New Zealand. In the initial section the article reviews studies suggesting that an over-reliance on screen-centred schools has occurred in both nations despite the lack of clear evidence of their educational

benefits. Redmayne next points out that health challenges have emerged due to overexposure to potentially harmful exposure to radiation that various technological devices such as laptop computers and tablets generate for which educators and Boards of Trustees may be liable. In so doing, the paper reviews legal developments in Australia and New Zealand with an eye toward protecting students and staff from the overexposure identified in the previous sentence. In the final part of her paper, Redmayne highlights legal considerations for educators and attorneys in Australia and New Zealand aimed at suggesting ways in which they can help develop policies to protect the health and safety of students and staff in the growing number of screen-centred schools in both nations.

As guest editor, I would first like to thank the National Board of ANZELA for the opportunity to prepare this issue of the *IJLE*. I would also like to thank Ms. Jo Spencer on behalf of ANZELA, for her always cheerful and professional help as she provided wonderful assistance in doing such the significant amount of work associated with finalizing the manuscripts for publication.

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Next, but certainly not least, I offer my thanks to the authors for their thought-provoking and well-written essays. I trust that readers will find the articles in this issue to be of interest so as to stimulate ongoing conversation about Education and the Law in the spirit of the leadership ANZELA provides.

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