

Thinking education



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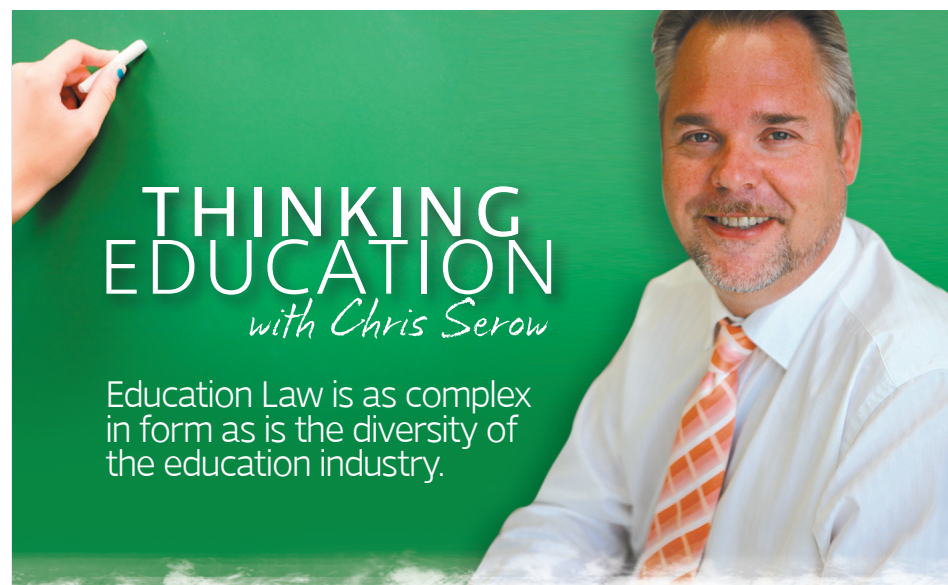
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THINKING EDUCATION

with Chris Serow

Education Law is as complex
in form as is the diversity of
the education industry.

The requirement of good governance, the regulation, development and implementation of appropriate policies and the enforcement and protection of entitlements for academics, teachers, students, parents and administrators are just some of the underlying foundations that ensure the quality and integrity of our education system. Far too often we can forget the importance of appropriate regulation. The volume of statutory and common law that currently applies to the education industry may seem to make education over complicated, or, in the alternative, under regulated. In any event, we should be mindful of the social and economic impact that changes to our education system and its regulatory framework have on our lives and community.

> The Right to Education

Australia has ratified and is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the United Nations Convention on the Rights of the Child (CRC). Both treaties recognise our right to education. Under the umbrella of the CRC, the best interests of the child are considered to be paramount, and children are recognised as having the right to participate in decision-making in association with matters that affect them. The CRC and the Hague Convention are recognised as part of the amendments made to the Family Law Act concerning parenting matters and an important consideration in relation to medical and privacy matters. Article 28(1)(a) of the CRC also provides that children have a right to education, including that primary education is to be free and compulsory (for ages between 6 and 15 years). Accordingly, matters concerning public policy, government funding, truancy and accessibility to education are important matters that we all must consider and uphold consistent with the international treaties that we have accepted. Although students have freedom in relation to choice in tertiary education and (to some extent) in relation to subjects chosen in later years of secondary education, it is not clear as to the appropriate level of involvement that primary school children should have in determining their own education.

> Proposals for a National Curriculum

In past years, respective Federal governments have made proposals to legislate for a new national curriculum. While the Federal

Government has the constitutional power to ratify international treaties and enact legislation to set parameters for the funding of education, it is independent State and Territory legislation that currently regulate governance structures, funding and the subject matter of learning in schools.

If a national curriculum is to be introduced, it would undoubtedly result in significant reorganisation of the entire framework and content of Australian education systems. In particular, existing accredited qualifications established at State levels (such as the School Certificate and HSC) will require at the very least adjustments to the assessment process. Currently, the reliance of students on certain types of technology for formal secondary school examinations (such as CAS calculators) is not accepted by some States, where students are required to demonstrate their knowledge of the manual process and workings involved in solving problems.

Education law
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Apart from conflicting regulation between states, what role should technology, electronic access and the rights of children play in determining whether or not a changed national curriculum is appropriate? What levels of support, funding and

other resources are required to implement a national curriculum, and what are the industrial implications? What about behaviour? Should a national code of ethics for the education industry binding on academics, teachers, administrators and students be implemented? What about child protection? Should the protections and obligations imposed under current State regulation be replaced by a unified Federal Act, or should each State continue to develop their own regulations?

Education Law regulates the education industry and provides a framework to maintain the integrity and value that we all place on our education system and the rights of its participants. It is an area of law that has a direct impact on all of our lives and the community and lifestyles that we enjoy. Developments and proposed changes are an important consideration to all of us, let alone the impact that current proposals could have on education providers within the New England and wider Australian communities.

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