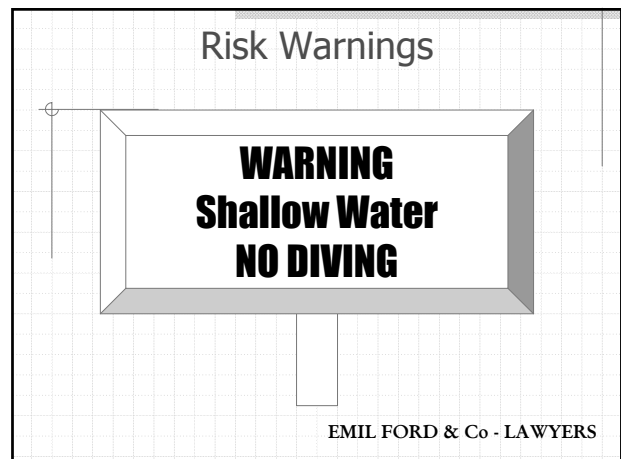
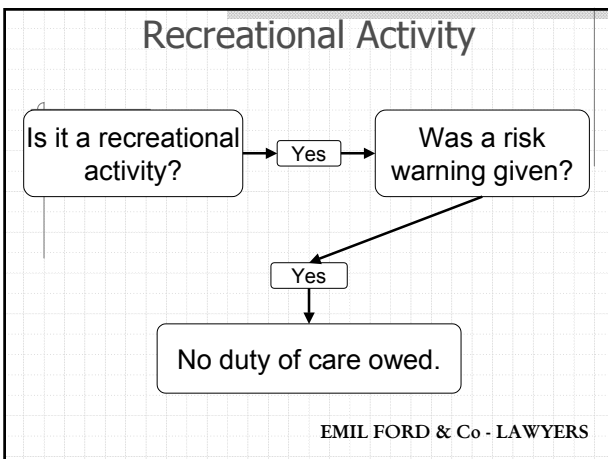
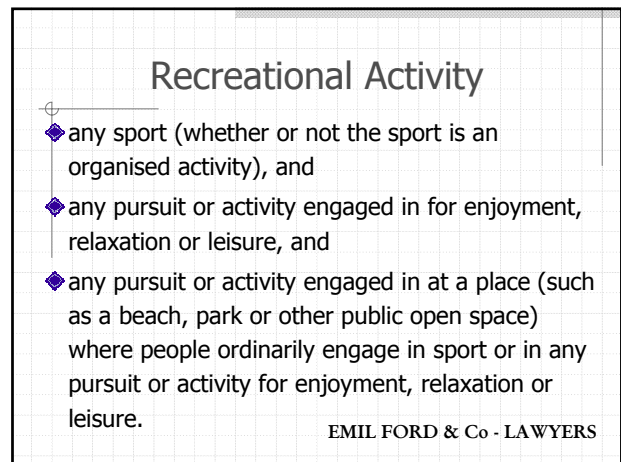
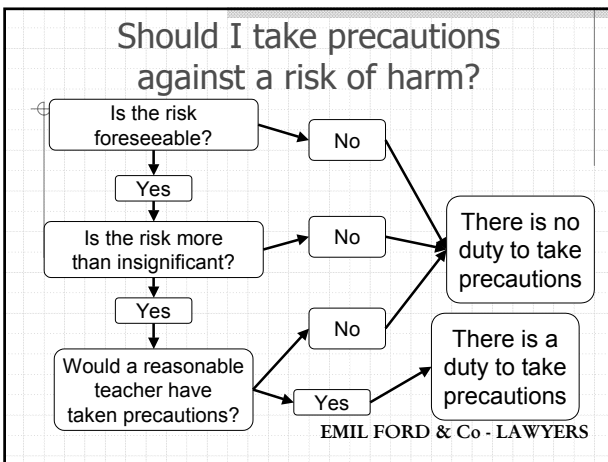
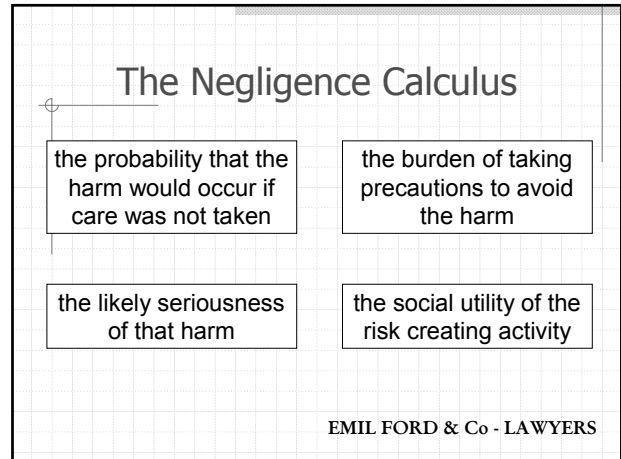
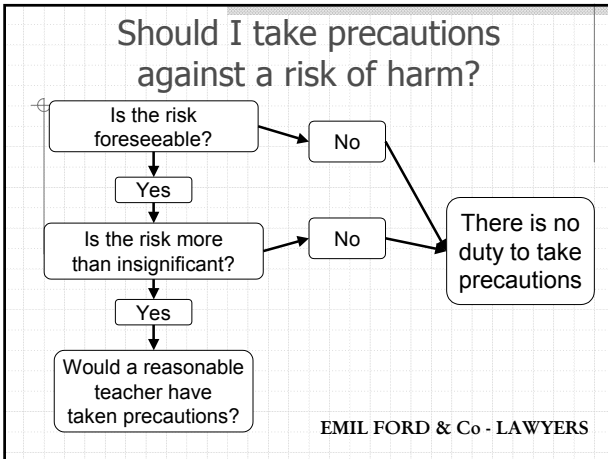


Legal Issues Facing Schools



Legal Issues Facing Schools

Volunteers

- ◆ incur no civil liability for anything done in good faith for a school:
 - which is organised by the school, or
 - done as an office holder of a school organisation;
- ◆ unless what was done:
 - constitutes an offence, or
 - was impaired by alcohol or drugs and without reasonable care and skill, or
 - was outside the scope of what was authorised or contrary to instructions.

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Apologies

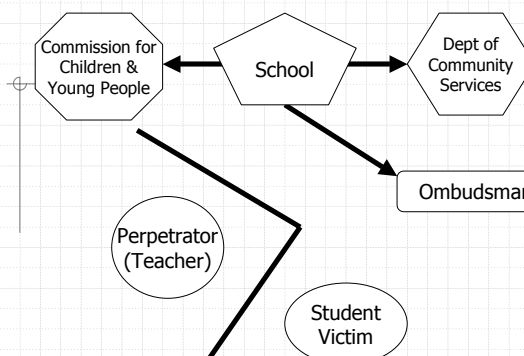
An expression of sympathy or regret, or of a general sense of benevolence or compassion, in connection with any matter whether or not the apology admits or implies an admission of fault in connection with the matter.

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Apologies

- Apologies work wonders.
- They are generally no longer an admission of liability.
- But no protection where there's been an intentional violent act (including sexual assault or misconduct)
- Therefore, look for opportunities to apologise but get advice first.

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Reportable conduct means:

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child, or
 - any assault, ill-treatment or neglect of a child
 - any behaviour that causes psychological harm to a child
- whether or not, in any case, with the child's consent.



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What is not reportable conduct?

- conduct that is reasonable for purposes of discipline, management or care of children
- use of physical force that is trivial or negligible
- conduct exempted by the Ombudsman

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Legal Issues Facing Schools

JSV v Christian Outreach Centre

Moral of the story:
read the fine print
to ensure your
school's insurance
covers all the
risks you wish to
cover.



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Employment

- ◆ Appointment Letters
- ◆ Award Provisions
- ◆ Unfair Dismissal
- ◆ Natural Justice
- ◆ Procedural Fairness



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Disability Discrimination

It is the intention of Parliament that every person concerned in the administration of education for children of school-age in NSW is to have regard to the ... provision of special educational assistance to children with disabilities.

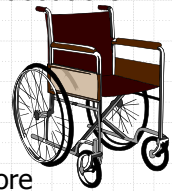
Section 6 Education Act 1990 (NSW)

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Discrimination at Enrolment

Lessons from *Finney's Case* about the Enrolment Process

- ◆ Offer and Acceptance
- ◆ Have a clear Enrolment Policy
- ◆ Investigate thoroughly before making an offer



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Discrimination after Enrolment

Lessons from *Hoggan's Case*

- ◆ Distinguish the disorder from the behaviour
- ◆ Make the correct comparison
- ◆ Remember your duty of care
- ◆ Occupational Health & Safety

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Taxation

- ◆ Income Tax Exempt Charity status
- ◆ Definition of "charity"
- ◆ School Building Funds
- ◆ School Library Funds

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