Reflections on ANZELA Conference 2014 – “Walking the Tight Rope: Getting the Balance Right”
Scarlett Lucero, Christian Brothers College, October 2014, Sponsored by the Teachers Registration Board of South Australia (TRB)

The 2014 Australia and New Zealand Education Law Conference (ANZELA) held on 1-3 October in Adelaide, South Australia, aptly and timely themed “Walking the Tight Rope: Getting the Balance Right”: Issues in Challenges in Education Law, brought together experts and delegates who shared a common interest and passion for education and law. Discourses presented by high calibre and insightful keynote speakers invoked critical inquiry and reflection on the influences of political agenda, shifting government policy and educational reform platform, economic imperatives, socio-cultural trends, environmental and ever evolving legal paradigm challenging educators in the tertiary and school sectors and legal practitioners. The Honourable Dr Robyn Layton’s keynote address on racism continually being omnipresent in various guises and the associated psychological impact is not just perceived, but a reality that is reflected in covert and overt attitudes. It was a timely reminder in educating young people that “racism” has no place in society, at school and in workplaces. After all if one is to predict the future of Australian society, one has to only look at the culture and climate of the school yard today and project that into the future (R Layton). On a similar theme Dr Mark McMillan, Senior Lecturer, School of Law, Melbourne University, presented a most insightful perspective on Aboriginal and Indigenous rights to education; and the failures in government policy, the important role of the media to aid a transparent and factual debate to support the development of policies and systems that authentically enables every Aboriginal and Indigenous person access education, as it is every young person’s right to do so in Australia. Mr Hieu Van Le, the Governor of South Australia, was a testament of what makes Australia a wonderfully rich nation, a celebration of the diversity of ideas, race, ideology, culture and how it adds value to the country’s landscape. With grace, humility and humour, the Governor shared his personal story of the many trajectories as a refugee from Vietnam and how he embraced every opportunity to create a most amazing life. His is an inspiring story of courage, resilience and the strengths of human spirit, and most importantly, a role model and a celebration of the richness of cultural diversity he has brought to South Australia.

Concurrent papers and presenters from academia and legal profession shared their comprehensive knowledge, expertise and practical advice on a range of contemporary and topical issues. This provided an environment where opportunity to engage and network with educators from the school and tertiary sectors and legal practitioners in an intellectually stimulating discourse on issues affecting this sector. The Conference probed and invited delegates to participate in a discourse on the increasing complexities, challenges and opportunities in educational law. These included identifying, preventing, mitigating and managing the multiplicity of existing and emerging legal risks: human resources, operational, financial, governance and communication and information technology faced by educational administrators, school leaders, teachers and the school community was rigorous, engaging and timely. In depth dissection of various case laws reinforced how critically for all involved directly and indirectly in the business of education to continually be cognisant of the law and regulation in areas including: employment and industrial relations; corporate governance; privacy and confidentiality, communication and information technology information. Equally important, are the lessons that various employee relations case laws reinforce: the need to be
conversant, appreciate and respect the rights of individuals; and that procedural fairness is applied in dealing fairly and consistently in investigating complaints. It is also important to be recognising the diversity of views in the workplace and having constructive and positive conflict management systems in place. In the Queensland case *Brisbane Boys College and Simon Blackwood* when the fundamental principles of fairness, respect for individual rights and their psychological wellbeing are not addressed legal remedies are invoked, which is costly and damaging to the reputation of the school and persons involved. Workplace complaints relating to relationship conflict need to be properly investigated in a timely manner. Management must take reasonable action to ensure the wellbeing of staff. Ultimately, getting the balance right calls for strategic and interconnected agenda. Establishment and implementation of professional standards that professionalises the Teaching Profession and the AITSL agenda is a framework to deliver consistency of practice and development of capability for both school leaders and teachers in Australia. Quality of leadership and teachers should be universal in all school sectors, government and non-government, faith-based or non-denominational. Attracting, developing and harnessing the human and psychological capital with authentic values and ethics to act with duty of care, observe due diligence, make sound judgment in decision-making and acting with utmost integrity, professionalism to respect the educational profession, the students, parents and the community to uphold the rule of law. Teaching is after all a privileged role and one that carries a great deal of responsibility for the learning, development, growth and performance of young people to fully participate and contribute as citizens in shaping an ever changing social and global landscape.

In applying to my local context and current role, the conference reinforced the criticality of the fundamental principle of due diligence throughout the employment lifecycle: in the design of all roles and clear selection criteria that is focused on hiring for “character and values”; performance management systems are holistic, that is, balanced with understanding “human relations” and staff wellbeing and in ensuring employee performance is at the highest standard to meet the objectives of the organisation. Teachers facilitate a critical role in shaping the lives of young people and the future of society which brings with it high degree of expectations and the commitment to act beyond reproach. Therefore, the developing and having a talent pipeline of quality teachers with the character, commitment and tenancy to act with authenticity and ethics is essential in the whole system. It is also a balancing act “with management of risk,” that is, while society and workplaces appear to be more litigious and complex issues continue to emerge, risks provide the opportunity for continuous improvement. This calls for a balancing act in promulgating policies and practices that proactively addresses the risks which achieves compliance and equally encourages creative thinking. Students and the community need to view schools as enablers that capture their imagination and cultivate their creativity as opposed to places that disenable. School leadership and governance needs to be able to balance the tightrope by being proactive, cultivating a high calibre of staff. They need strategies and governance that empower and engage learners and promote a culture where risk is embraced as an opportunity for the students, staff and the community. Tony Houey’s (Deputy Principal, Pembroke School) pragmatic and proactive approach in managing the many real current and emerging human resources issues in schools is worth emulating. “Walking the Tightrope” is about getting the balance right. Act consistently, timely, respectfully and decisively and be prepared to make the tough decisions that are appropriate in each circumstance. Doing so in an ethical, morally and legally defensible matter preserves the rights and dignity of all parties concerned.
I express my appreciation and gratitude to the Teachers Registration Board (TRB) for its initiative to offer sponsorship which facilitated my attendance to the 2014 ANZELA Conference. I congratulate the ANZELA SA Chapter for their tireless efforts and professional organisation of a most successful conference, bringing together a rigorous and timely dialogue with the foci on “perspectives” on how to respond to legal issues and challenges. Current and emerging risks provide school leaders, teachers and the community every opportunity to reflect and continually review to improve and proactively ensure policy, strategy and governance systems and practices reflects the standard of practices that is innovative and responsive to the legal changes.

I encourage those who are passionate about education and the law to join and support ANZELA as I will be doing so in 2015. When planning your professional development in 2015, the ANZELA Conference on 28-30 September is one to highly consider. The theme “Through the Looking Glass: Implications of Changes in Education Law” a metaphor of Lewis Caroll’s 1871 story “Through Looking-Glass, and what Alice found” will facilitate an engaging critique, reflection and discourse into the intended and unintended consequences of the various legislative reforms and government policy, and whether this makes a impactful and sustainable change to educators and legal practitioners to meet community expectations. I hope that the TRB will continue to offer sponsorship in the coming years to enable and provide opportunities for greater participation in this upcoming conference.