

Table of Contents

<i>Foreword</i>	v
<i>Table of Cases</i>	xiii
Chapter 1 — Introduction	1
Chapter 2 —Legal Liability: How is it Defined and How Can it be Avoided?	5
1. Legislative Authority.....	5
2. Common Law Obligations	7
3. Tort of Seclusion.....	9
4. Complaints.....	9
5. Conclusion	11
Chapter 3 — Privacy: “The Right to be Let Alone”	13
1. What is Privacy?	13
2. Privacy and Technology	15
3. Student Views of Privacy.....	16
4. The <i>Canadian Charter of Rights and Freedoms</i>	18
(a) Right to Search a Student	20
(b) Right to Search a School.....	21
(c) Right to Search Computers and Mobile Devices.....	22
5. Privacy Legislation	26
(a) <i>PIPEDA</i>	26
(b) <i>FIPPA</i> and <i>MFIPPA</i>	27
(c) <i>PHIPA</i>	30
(d) <i>Education Act</i>	31
6. Protection of Privacy at Common Law	31
7. Information and Privacy Commission	34
8. PIM Taskforce	36
9. Summary	36
Chapter 4 — Teaching in the Internet and Social Media Age	39
1. Common Law Requirements	39

(a) <i>R. c. Audet</i>	39
(b) <i>Attis v. New Brunswick School District No. 15</i>	40
(c) <i>Toronto (City) Board of Education v. O.S.S.T.F., District 15</i>	42
2. Legislative Requirements	43
3. Professional and Ethical Standards	44
4. Advisories Regarding Social Media Use by Teachers	45
5. Freedom of Expression	48
6. Sexual Misconduct	53
7. Recommendations	56
8. Summary	58
Chapter 5 — Read the Fine Print: Terms and Conditions of Use	59
1. Common Terms of Use	59
2. Privacy Policies	61
3. When is an Agreement Binding?	62
4. Valid Student Consent	65
5. Consent Under Privacy Legislation	66
6. Social Networking Sites	68
7. Mobile Applications (“Apps”)	70
8. Summary	72
Chapter 6 — Securing Electronic Data	75
1. Cloud Computing	76
2. Privacy in the Cloud	78
3. Mobile Devices and School Board Networks	83
4. Monitoring	84
5. Securing Personal Information and Confidential Business Data	86
6. Containerization	89
7. Additional Considerations for BYOD Policies	89
8. Evidence of Inappropriate or Illegal Activity	91
9. Companion Procedures	92
10. Summary	92
Chapter 7 — How to Respond to Cyberbullying	95
1. Impact of Cyberbullying	97
2. Reporting Cyberbullying	98

3.	Responses to Cyberbullying — Educators	100
4.	Responses to Cyberbullying — Law Enforcement	102
5.	Other Legal Approaches.....	105
6.	Response to Cyberbullying — Student Discipline	107
7.	A Student’s Right to Freedom of Expression	112
8.	Summary	115
Chapter 8	— Canada’s Anti-Spam Legislation	117
1.	Purpose.....	117
2.	What is a Commercial Electronic Message?.....	118
	(a) Commercial.....	118
	(b) Electronic.....	119
3.	School Board CEMs	119
4.	CASL Requirements	120
5.	Messages Exempt from CASL.....	120
6.	Messages Exempt from CASL Consent Requirements	121
7.	Consent.....	122
	(a) Express Consent.....	122
	(b) Implied Consent.....	123
	(c) Transition Period	124
8.	Prescribed Information.....	124
9.	Unsubscribe Mechanism.....	124
10.	Enforcement.....	125
11.	Penalties.....	125
12.	Summary	125
13.	Due Diligence Defence	127
	(a) Due Diligence Checklist	127
Chapter 9	— Defamation in the Internet Age.....	129
Chapter 10	— Copyright: It Still Matters.....	139
1.	Fair Dealing.....	140
2.	Cautions	143
3.	Students’ Work	143
4.	Moral Rights	144
5.	Breach of Copyright.....	145
	(a) Injunction	146

(b) Civil Damages.....	146
(c) Statutory Damages.....	146
(d) Exemplary or Punitive Damages.....	147
(e) Recovery of Possession.....	147
6. Summary: Steps to Consider in Using a Copyright Protected Work	148
Chapter 11 — Plagiarism: The Cost of “Kidnapping” Schoolwork	149
1. Definition of Plagiarism	149
2. Consequences	150
3. Summary	153
Chapter 12 — What Now? A Responsible Use of Technology Policy	155
1. Responsible Use of Technology Policy	156
2. Privacy	158
3. Mobile Technology	161
4. Terms and Conditions	162
5. Students	164
6. Supervision and Training	165
7. Conclusion	165
Appendices.....	167
1. R.R.O. 1990, Ontario Regulation 298, <i>Operation of Schools — General</i>	167
2. <i>Personal Information Protection and Electronic Documents Act</i> Privacy Principles	169
3. <i>Privacy by Design: Seven Foundational Principles</i>	171
4. <i>Online Educational Services: What Educators Need to Know</i>	173
5. <i>2017 GPEN Sweep Report: Online Educational Services</i>	179
6. <i>Kids’ Privacy Sweep Lesson Plan: Grades 7 and 8</i>	193
7. <i>Collecting From Kids? Ten Tips for Services Aimed at Children and Youth</i>	201
8. Privacy Information Management Toolkit Privacy Standard	205
9. Privacy Information Management Toolkit Privacy Policy Template	223

10. The Ethical Standards for the Teaching Profession/The Standards of Practice for the Teaching Profession.....227

11. *Maintaining Professionalism — Use of Electronic Communications and Social Media*.....231

12. Privacy Information Management Toolkit Privacy Impact Assessment Template241

13. *Is a Bring Your Own Device (BYOD) Program the Right Choice for Your Organization? Privacy and Security Risks of a BYOD Program*.....269

14. Policy/Program Memorandum No. 144, Bullying Prevention and Intervention285

15. Policy/Program Memorandum No. 157, Use of Copyright Protected Works for Education.....299

Index 309