

# Education and Other Legislation Amendment Bill 2026

## Statement of Compatibility

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, John-Paul Langbroek MP, Minister for Education and the Arts, make this statement of compatibility with respect to the Education and Other Legislation Amendment Bill 2026 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement.

### Overview of the Bill

The Bill amends the following education legislation: the *Education (Accreditation of Non-State Schools) Act 2017*, the *Education (General Provisions) Act 2006*, the *Education (Queensland Curriculum and Assessment Authority) Act 2014*, the *Education (Capital Assistance) Act 1993* and the *Education (Queensland College of Teachers) Act 2005* and the Education (General Provisions) Regulation 2017.

The Bill:

- reduces regulatory burden, delivers risk-based regulation, improves legislative clarity and enhances governance for the Non-State Schools Accreditation Board (NSSAB) and non-state schooling sector;
- clarifies legislative status of education and training centres (ETC) in youth detention centres and working with children authority requirements for approved teachers working in an ETC;
- clarifies and facilitates delivery of re-engagement supports for young people who are disengaged, or at risk of disengagement, from education;
- enables an expanded model for international delivery of the Queensland Certificate of Education (QCE);
- implements operational and governance improvements for the Queensland College of Teachers (QCT); and
- makes minor and technical amendments to ensure currency, update cross references and provide for contemporary legislative mechanisms for particular education purposes.

The Bill also includes amendments to foster a vibrant arts sector and delivers improved governance arrangements for Queensland's arts statutory bodies (ASB) through amendments to the *Queensland Art Gallery Act 1987*, the *Libraries Act 1988*, the *Queensland Museum Act 1970*, the *Queensland Performing Arts Trust Act 1977* and the *Queensland Theatre Company Act 1970* (ASB enabling Acts).

The Bill provides the opportunity to modernise governance provisions, including increasing the range of best practice accountability and integrity changes, and removing a number of

operational challenges experienced through the ASB enabling Acts, which have been largely unchanged since enactment (averaging 30 years ago).

## Human Rights Issues

### Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the following human rights are relevant to the Bill:

- right to recognition and equality before the law (section 15, HR Act) (potentially promotes);
- right to life (section 16, HR Act) (potentially promotes);
- right to privacy and reputation (section 25, HR Act) (potentially limits);
- right to protection of families and children (section 26, HR Act) (potentially promotes); and
- right to education (section 36(1), HR Act) (potentially promotes).

### Non-state schools accreditation framework and NSSAB

#### Change in accreditation attribute

The Bill amends the *Education (Accreditation of Non-State Schools) Act 2017* (EANSS Act) to introduce a risk-based assessment process for applications for changes to accreditation attribute by allowing NSSAB to choose either a simple assessment focused on the proposed change in attribute; or a full/broad assessment of accreditation when required.

This reform potentially promotes the *right to education* and *right to protection of families and children* because it strengthens the framework by reducing delays to applications for change to accreditation attributes, while the risk-based assessment process supports delivery of safe and high-quality learning environments for children.

#### Use of temporary sites by SAS and by other non-state schools

The Bill amends the EANSS Act by extending the use of the temporary site framework to enable all non-state schools to operate from a temporary site when impacted by an emergency event, such as natural disasters. The Bill also clarifies the accreditation status during the site inclusion application process, including providing for the extension of the period for which a school may operate at a temporary site.

This reform potentially promotes the *right to education*, *right to protection of families and children* and *right to life* because it supports continuity of education for students where schools are impacted by emergency events and mitigates risk of harm to children and staff caused by environmental hazards caused by emergency events.

#### NSSAB power to delegate functions

The Bill amends the EANSS Act to introduce a delegation power to allow NSSAB to delegate appropriate functions and powers to suitable persons. No relevant human rights are identified as potentially impacted due to the operational and administrative nature of the amendments.

#### Statement of Ministerial Expectations

The Bill amends the EANSS Act to introduce a Ministerial Statement of Expectations (SoE) mechanism relating to NSSAB's performance. Subject to the nature of an SoE issued by the Minister, this may potentially promote the *right to education* or the *right to protection of families and children*, given NSSAB's role in upholding the standards of education at non-

State schools, maintaining public confidence in the operation of non-State schools, and fostering educational choices in Queensland.

#### Information sharing between NSSAB and Department of Education (DoE)

The Bill amends the EANSS Act to enable timely information sharing from NSSAB to DoE about matters such as show cause notices relating to non-state schools and the status of a non-state school's accreditation. This potentially promotes the *right to education* because it will enhance DoE's ability to perform its complementary functions effectively, including administering Queensland Government funding to non-state schools, providing timely advice to the Minister on emerging issues, and providing coordinated responses and delivery of risk management planning with NSSAB and non-state schooling sector where schooling continuity may be impacted or disrupted. It should be noted that the information shared is about school accreditation and funding decision and does not relate to individuals. The amendments ensure that information on decisions made by NSSAB is able to be shared with DoE.

#### **Re-engagement of children and young persons in education, training and employment**

The Bill amends the EGPA to clarify that DoE and prescribed non-government providers may support and manage participation of children and young people in re-engagement programs (referred to in the Bill as an education re-entry and transition service program), until they are ready to transition back into school or another eligible option.

These programs are for children and young people with, or at risk of, entrenched disengagement who require extended support to address barriers to school attendance and engagement. Examples of these programs include department-led individualised case management and specialised alternative learning programs delivered by non-government organisations.

This reform potentially promotes the *right to education* by facilitating pathways back into education for those children and young people with, or at risk of, entrenched disengagement who require extended support to address barriers to school attendance and engagement.

The Bill will also put beyond doubt that information sharing may occur between DoE and a non-government provider of an education re-entry and transition service program or another entity to enable referral into a program and obtain information about a child or young person's participation in the program. The Bill also provides for DoE to be permitted to on-share the information about the child or young person's participation in the program to the school or provider of another eligible option to support successful student transitions to the appropriate destination after participation in the program.

The information sharing powers potentially limit the *right to privacy and reputation*.

#### **Recognition of ETCs as state educational institutions**

The Bill explicitly recognises ETC as a state educational institution under the *Education (General Provisions) Act 2006* (EGPA). This potentially promotes the *right to education* and the *right to recognition and equality before the law* by clarifying legislative authority for the delivery of education programs to children and young people in youth detention centres and clarifying that registered teachers working in ETCs do not require a blue card or exemption card, consistent with other educational settings.

#### **Criminal history check fees**

The Bill amends the EGPA and *Education (Queensland College of Teachers) Act 2005* (QCT Act) by providing for a contemporary approach for the collection of the criminal history check fee (CHC fee) for the purposes of obtaining a criminal history report for mature age students

under the EGPA and teacher registration and eligibility declaration under the QCT Act. Instead of continuing to prescribe the CHC fee in the Education (General Provisions) Regulation 2017 and Education (Queensland College of Teachers) Regulation 2016, which requires regular amendments to the two regulations when the fee is updated by the Queensland Police Service, the Bill provides for the fee to be published on DoE and QCT's websites.

No relevant human rights are identified as potentially impacted due to the technical nature of the amendments.

#### **Improve efficiency of operations for the OCT**

The Bill amends the QCT Act to replace all references to the title of 'director' of the office (as established under section 276 of the QCT Act) with 'chief executive officer'. This amendment is to align the QCT Act with contemporary governance standards, consistent with other statutory bodies.

The Bill also amends the QCT Act so QCT's financial year runs from 1 July to 30 June, instead of 1 January to 31 December, including aligning the annual reporting timing with the new financial year. This amendment is to align QCT's financial reporting with the broader Queensland Government financial cycle and improve operational efficiency.

No relevant human rights are identified as potentially impacted due to the operational and administrative nature of the amendments.

#### **International delivery of the OCE program**

The Bill amends the *Education (Queensland Curriculum and Assessment Authority) Act 2014* to enable Queensland non-state schools to work with overseas schools, if they are recognised by the Queensland Curriculum and Assessment Authority, to deliver the Queensland Certificate of Education (QCE) to international students through a partnership model. As the students undertaking the QCE are international students, the HR Act is not applicable.

#### **ASB governance reforms**

The Bill amends the ASB enabling Acts to modernise appointments and short-term operational arrangements to support continuity, strengthen probity and integrity settings, and update additional operational provisions across the portfolio.

The ASB governance amendments potentially limit the *right to privacy and reputation*.

#### **Minor and Technical Amendments**

The Bill makes minor and technical amendments across the package, including correcting typographical errors, updating outdated references and clarifying heads of power to support effective operation of legislation. A number of provisions relating to information sharing and enrolment of international students in State schools have been moved from the *Education (General Provisions) Regulation 2017* to the EGPA, but the purpose of these provisions have remained unchanged.

These minor and technical amendments do not engage or limit any human rights under the HR Act.

**If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)**

## Right to privacy and reputation

### Re-engagement of children and young persons in education, training and employment

#### a) the nature of the right

Section 25 of the HR Act provides that every person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The scope of the right to privacy is very broad. It protects privacy in the narrower sense including personal information, data collection and correspondence, but also extends to an individual's private life more generally. For example, the right to privacy protects the individual against interference with their physical and mental integrity; freedom of thought and conscience; legal personality; individual identity, including appearance, clothing and gender; sexuality; family and home.

The protection against interference with privacy, family, home or correspondence is limited to unlawful or arbitrary interference. The notion of arbitrary interference extends to those interferences which may be lawful, but are unreasonable, unnecessary and disproportionate.

The Bill engages with the *right to privacy* with regards to the amendments to provide a legislative status for education re-entry and transition service programs. The Bill has the potential to limit the right because it provides authority for the disclosure, without consent, of personal information about a child or young person as it pertains to their referral to or participation in an education re-entry and transition service program and transition out of the program into a school or another eligible option.

#### b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The EGPA requires a child of compulsory school age to be enrolled at and attend a state or non-state school, and a young person in the compulsory participation phase to participate in an eligible option.

DoE and select non-government organisations deliver a range of non-school-based programs designed to re-engage children and young persons in education, training or employment pathways, often in coordination with other agencies or services. These programs are for children and young people with, or at risk of, entrenched disengagement who require extended support to address barriers to school attendance and engagement. Examples of these programs include department-led individualised case management and specialised alternative learning programs delivered by non-government organisations.

However, the EGPA does not provide an explicit framework for these programs where a child or young person has significant barriers making them not immediately capable of transitioning back into a school environment or another eligible option to meet the compulsory schooling and compulsory participation requirements.

The Bill amends the EGPA to clarify that the department and prescribed non-government organisations may support and manage participation of children and young people in re-engagement programs (referred to in the Bill as an education re-entry and transition service program), until they are ready to transition back into formal education or another eligible option.

To facilitate referral to a suitable education re-entry and transition service program for a child or young person experiencing or at risk of experiencing entrenched disengagement, and ensure

the program remains suitable and the child or young person is participating in the program, it is critical for DoE to be able to share personal information with a program provider or another entity and to seek information from a provider about the child or young person's participation.

Children and young people with or at risk of entrenched disengagement are more likely to have complex needs and backgrounds and behaviours, which have contributed to their disengagement. Having the necessary information about the child or young person's circumstances will facilitate successful referral to an appropriate education re-entry and transition service that meets the child or young person's particular needs and enhances the likelihood of success of their participation in a program.

It is also important that DoE is empowered to obtain, from a prescribed non-government organisation providing such an education re-entry and transition service, information about a child or young person's participation in the program to maintain oversight of the child or young person and ensure the program remains suitable for the child or young person.

Additionally, noting the primary goal of education re-entry and transition service programs is to support a child or young person to successfully re-engage with education and return to formal schooling or another eligible option, it is necessary to be able to provide the school or provider of another eligible option with information about the child or young person's participation in the program and other information about the child or young person. This is critical for the destination school or provider of an eligible option to have in order to ensure:

- the destination school or provider of another eligible option is well informed of any ongoing additional needs of the child or young person and necessary supports to facilitate successful transition to the school or another eligible option and provide for continuity of education; and
- the destination school has necessary information to support the safety and wellbeing of the child or young person and that of the school's community.

For these reasons, the Bill amends the EGPA to put beyond doubt that information sharing may occur between DoE and a non-government organisation providing an education re-entry and transition service program or another entity to enable referral into a program and obtain information about a child or young person's participation in the program. DoE will be permitted to on-share the information about the child or young person's participation in the program to the school or provider of another eligible option the student transitions to after participation in the program.

Only information that is relevant to the referral to the program or participation in the program or continuity of education and the safety and wellbeing of the child or young person or the school community for their destination school may be shared.

Further, the Bill includes confidentiality provisions pertaining to the information sharing powers to limit the further sharing of the information without consent or for particular limited prescribed circumstances.

It should be noted, the information sharing power in the Bill is consistent with information sharing that also occurs under the EGPA via transfer notes when a student moves between Queensland schools, to support continuity of education, and safety and wellbeing of the student and that of the school community at the student's new school. Like the use of transfer notes, the Bill further supports the intent of the recommendations made by the Royal Commission

into Institutional Responses to Child Sexual Abuse (Royal Commission) in terms of the importance of information sharing and use of transfer notes.

In addition, the Royal Commission found that the transfer of a student's relevant information is one of the most significant factors in successful transition to a new school, and may be particularly necessary where the student has:

- engaged in harmful sexual behaviours and, as a consequence, may pose risks to other students; or
- experienced sexual abuse and as a consequence had particular educational and support needs.

The Royal Commission emphasised the importance of ensuring schools are able to address the educational and support needs of students who have been victims of sexual abuse, noting associated negative effects on academic achievement, learning ability, cognitive function, concentration, educational engagement and school completion rates.

The Royal Commission made a number of recommendations which call for states and territories to provide for student information to be exchanged between schools in a manner that is proportionate, proactive and cross-sectoral to ensure continuity of the student's educational program when a student transfers schools and to provide appropriate protections to both the student transferring and to the other students and staff at the new school.

The purpose of the limitation is therefore consistent with a free and democratic society based on human dignity, equality and freedom as any limitations is necessary for supporting continuity of education and ultimately a child or young person's access to education, which is a right under the HR Act (section 36(1)).

- c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Where possible, sharing personal information about a child or young person will occur with consent of the parent or young person. However, obtaining consent can be very difficult in many cases where a child or young person is facing entrenched disengagement from schooling, given the nature of the circumstances or reasons for disengagement.

By providing the information sharing powers, the Bill helps to achieve the successful referral to and participation in an education re-entry and transition service program for a child or young person who is disengaged, or at risk of disengagement, with the goal of transition back to school or another eligible option.

The potential limitation of the right to privacy should be balanced against the outcome of promoting the right to education.

- d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

Obtaining consent is a less restrictive way to achieve the purpose of the Bill and would reduce the potential limitation of the right to privacy. The Bill does not prevent consent from being obtained and best practice principles and operation will be to seek consent in the first instance. However, as noted above, obtaining consent in circumstances where a child or young person is disengaged from education can be very difficult, often due to the very nature of the reasons for the disengagement. The alternative of not obtaining consent potentially puts the child or

young person at greater risk of further disengagement and limits their access to a necessary support service, therefore potentially limiting another right under the HR Act; that is, the right to education.

For these reasons, it is considered that this is not a reasonable way to achieve the purpose of the Bill, which is to facilitate disengaged children and young people being able to access an appropriate education re-entry and transition service with the intention of supporting their return to formal schooling or another eligible option.

- e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

If legislative authority is not provided for information sharing about a child or young person facing entrenched disengagement to support their access to an education re-entry and transition service program, and consent for the information sharing cannot be obtained, this significantly risks the opportunity for that child or young person to access supports and address barriers to school attendance. In turn, this potentially limits their right under the HR Act to access education.

It is considered that the benefits of a child or young person being supported to re-engage with their education, which can have significant ongoing and even lifelong benefits for the child or young person and society, outweighs the potential limitation on the right to privacy.

- f) any other relevant factors

Nil.

**If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)**

### **Right to privacy and reputation**

#### **ASB governance reforms**

- (a) the nature of the right

The nature of the *right to privacy and reputation* is described above. The Bill engages with this right with regards to the criminal history checking provisions with regards to:

- determining the suitability of a person proposed (nominated) to be on a Board of government body;
- the requirement for a person, as a Board Member to disclose any changes in their criminal history; and
- how the criminal history information of a person proposed (nominated) to be on the Board of a government body and when they become a Board Member, be handled by relevant persons with access to the information.

The Bill has the potential to limit this right by providing a legislative basis for the Minister to seek with the person's consent, a criminal history report to for the purpose of determining whether a person is disqualified from becoming or continuing as a member.

The seeking of and receiving consent from a proposed nominee supports the position that the potential limitation on a right to privacy is reduced/limited by the individual being aware of the process and additionally, there being included offence for a person listed who does not handle such information with regard to the proposed nominees' privacy and reputation.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The Bill contains the provisions for seeking criminal history reports on persons proposed as nominees. Additionally, the Bill requires a person who is a Board member disclose any changes in their criminal history.

The Cabinet Handbook does not specifically require criminal history reports to be undertaken relative to the appointment of Board members (as significant appointments), it notes that *'formal checks of criminal history, bankruptcy and eligibility to manage corporations should be conducted as relevant and where legislation specifies conditions for eligibility for appointment'* (5.1.7 Cabinet Handbook).

There are examples across the Queensland Statute Book for criminal history checks to be sought and it is deemed an appropriate mechanism relative to the appointment of a person to a government body. The criminal history check is a more appropriate level of detail than, for example, a statement from a proposed nominee (as outlined in the Cabinet Handbook).

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The potential limitation on a proposed nominees' right to privacy would be in place to assist the achievement of the determining of that person and their suitability to hold a position as a Board member of a State body.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The Cabinet Handbook directs the relevant Department to seek a statement from proposed nominees to confirm their suitability for appointment. This may not provide the sufficient detail to manage the responsibilities associated with a significant appointment to government body.

The provisions are proposed to contain some level of safeguarding by way of:

- consent from the proposed nominee to the process of appointment requiring a check of their criminal history;
- creating an offence where an officer, employee or agent of the department directly or indirectly discloses another person's criminal history information obtained for the purposes of determining a person's suitability to be a member; and
- for the criminal history report to be destroyed as soon as practicable after it is no longer needed for the purpose given (determining suitability as a member).

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The rights of an individual proposed as a nominee are balanced against those of the responsibilities of the State and the Statutory Body that the proposed nominee will represent.

The provisions set out to balance these considerations and provide the safeguards outlined as appropriate management of these considerations.

(f) any other relevant factors

Nil.

## **Conclusion**

In my opinion, the Education and Other Legislation Amendment Bill 2026 is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

**JOHN-PAUL LANGBROEK MP**  
**MINISTER FOR EDUCATION AND THE ARTS**

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