

Education (General Provisions) and Other Legislation Amendment Bill 2024

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LEGISLATION AMENDMENT BILL 2024

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Overview of concerns about the changes proposed to home education:

I have four main concerns about the proposed bill, which is drawn from (1) my work as a researcher examining why parents choose alternative education, especially home education, (2) my 25 years of experience as a teacher and (3) my nearly 20 years as a teacher educator. These five concerns are:

- The increased compliance burden will drive families underground.
- A misunderstanding of the reasons families choose home education.
- The implementation of ACARA and the QCAA syllabuses, and the impact on currently recognised alternatives.
- The requirement for parents to prove that home education is in the best interest of the child.

I will address each of my concerns below.

Compliance and home education:

The Office of the Deputy Director General, in the Teams meeting held on March 12, implied much of this regulation is in response to a story, published in The Courier Mail, about a 'cult' that was home educating. As such, it appears this legislation is an attempt to force families to teach the Australian curriculum and stay in school while

allowing the department to evaluate a full plan among proposed other compliance requirements.

While research into home education registration and reporting requirements is limited (Kammann, 2015; Krogh & Liberto, 2021), researchers (Muscatine, 2020; Krogh & Liberto, 2021) have consistently suggested **onerous compliance requirements lead to disengagement**. In my own work, I have noted that there are already **significant issues with under-registration in Queensland** (English & Gribble, 2021; English, 2023) which supports ABC analysis from 2012 (Townsend, 2012) which suggested while official figures identified 951 homeschoolers in the state, there were 12,000 unregistered homeschoolers. Further, the department's own review of home education in 2003 showed that **significant numbers of families were not registered** because of a **fear of government intrusion**, a **perception of a hostile regulatory environment**, a **belief the department did not understand home education** and homeschool families' needs, and **over-regulation** (Jeffrey & Giskes, 2004). These issues persist (Euka, nd) and this legislation will do nothing to ameliorate these 20-year-old concerns.

Registration and reporting requirements vary by location with some locations requiring high levels of engagement with authorities which can be a barrier to legal homeschooling (Ray, Shakeel, Worth & Bryant, 2021) and others, including some parts of the USA and currently the UK, requiring no engagement with authorities at all (Lees & Nicholson, 2021). In other countries, such as China, it exists in a grey area of semi-legality where engagement with authorities seems to be discouraged (Liu, 2022). In all cases, as noted by Krogh and Liberto (2021), there is **evidence that ensuring the legislation is achievable and families feel supported** in engaging with regulators is shown to **balance states' needs to regulate education and parents' rights to choose** the education that suits their child in a democracy (Apple, 2020; Hamilton, 2022). This need to further determine that balance in Australia was evident in the New South Wales inquiry in 2014 (Parliament of New South Wales, 2014), a process in which I participated and gave evidence.

Why parents choose home education:

In addition, the apparent desire to address the issue of ‘cults’ and home education fundamentally **misunderstands the reasons parents choose to home educate**. It is important to understand what research shows about why families choose home education. Researchers (see English 2021a for a discussion of the issues around theorising home education choice), over the past 30 years (see Van Galen, 1991), have shown that **families consistently choose home education when other educational options are perceived to have failed them**. Recently, there has been a growth in home education after the pandemic when parents saw what was happening in classrooms during the online schooling phase of the lockdowns (see English, 2021b) and were not happy with the ways classrooms were being managed (English, Campbell & Moir, 2023) and what was being taught (Preethi & Lawrence, 2021).

Research (Neuman, 2021; Neuman & Oz, 2021) have shown that families report high levels of dissatisfaction with mainstream schooling and do not believe it is being conducted in their child’s best interests. However, this research also shows that **parents who choose home education are responding to what is perceived to be schools’ failure** to teach properly, manage behaviours, both those of their child and that of other students, and the inability of curriculum to be flexible and adaptable to students’ needs. **Families choose home education not because they want to, but largely because they feel they have no other choices** (English, 2021a; 2021b; 2022). If schools were perceived to be effective at meeting children’s needs, and at educating their children in ways that met their needs, families consistently report that they would keep their children in schools (Green-Hennessy & Mariotti, 2023). In the past this decision was not set, with families exiting home education to return to schools (Allen & Jackson, 2010), however, increasingly once they exit the system and enter home education, they tend to stay (English et al., 2023) unless a major life event (such as the death of a partner) changes their situation (Sheng, 2024).

ACARA and the QCAA syllabuses:

There are several points that are concerning in this area. The first is the **lack of clear statements** of the **capacity of parents to teach a recognised alternative**. ACARA states that their charter involves the assessing of curriculum, other than ACARA, that meets the requirements of the national curriculum (ACARA, 2023a). Waldorf/Steiner was assessed as meeting the requirements in 2023, and is identified on the recognition register (ACARA, 2023b) but it is not clear that the wording of the curriculum in Section 217 (3)(a)(ii) “published on the authority’s website” means the recognition register as it is separate from the main business of the authority. In addition, Montessori, an approach approved to be used in schools across Queensland, is not listed on the register. It may be that families using Montessori curriculum may not be able to use that curriculum in their home education.

The second point is that ACARA’s role is, as noted on the website, “the development and ongoing refinement of the Australian Curriculum, national assessment including NAPLAN, and reporting on schooling in Australia” (ACARA, nda, ¶13). The curriculum is proposed to be required for all home educators in Queensland however, that is inconsistent with its purpose. ACARA (ndb, nd, ¶11) states:

the Australian Curriculum describes to teachers, parents, students and others in the wider community what is to be taught and the quality of learning expected of young people as they progress through school.

As is evident from the quote above, **the Australian Curriculum is a specialist document, designed for teachers and schools, so that learning can be consistent in schools across the country**. Its specialisation is evidenced by all teachers requiring an education degree in Queensland to be registered. Registration as a teacher in Queensland with the Queensland College of Teachers (QCT) requires prospective applicants to demonstrate they have a four-year equivalent degree in education/teaching and are able to implement the Australian curriculum, or a recognised alternative demonstrated through their professional practice in the degree (QCT, nd).

The third point is the senior phase of learning. The new legislation proposes the use of **Queensland Curriculum and Assessment Authority (QCAA) syllabus documents** to align senior learning in home education with learning in schools. However, these **cannot be properly implemented in a home setting**. As the QCAA (2024, ¶1) notes:

In Queensland, a syllabus for a senior subject is an ‘official map’ of a senior school subject. A syllabus’s function is to support schools in delivering the Queensland Certificate of Education (QCE) system through high-quality and high-equity curriculum and assessment.

As this quote demonstrates, the syllabuses are for schools to use to effectively implement, under the guidance of the QCAA, senior syllabus documents in line with the awarding of a QCE and the determination of an Australian Tertiary Admissions Rank (ATAR).

Effective implementation of senior syllabuses requires schools, usually through Heads of Department (HoDs) or Subject Coordinators, to work with the QCAA to ensure the syllabus intentions are met and consistently applied between different schools. They do this work through the development of study plans. Study plans must be approved by the Authority 12 months before they are implemented. The QCAA (2024, ¶1) outlines the process as “schools create and submit study plans in the Study Plan application via the QCAA Portal” Once the plan is developed and has been assessed as consistent with QCAA requirements, “QCAA officers review and approve study plans” (2024, ¶1).

Study plans outline student learning and assessment for a four-unit course of study. They are each school’s plan of how the course of study will be delivered and assessed based on the relevant Applied syllabus. To be approved, the study plan must meet syllabus requirements. To plan the course of study, schools use the syllabus and the Study plan requirements resource available in the Syllabuses application via the QCAA Portal.

(QCAA, 2024, ¶12)

The quotes above demonstrate it is impossible to effectively implement the QCAA senior syllabuses in a home education setting. The QCAA cannot be required to approve the study plans of parents who are not trained in the implementation of senior

secondary syllabuses. It is generally accepted that only senior teachers, HoDs, and those in positions of added responsibility are required to develop and submit these plans to the QCAA.

While the QCAA notes that home educators can apply for a QCE through the Home Education Unit (HEU), it is not clear HEU staff will be able to meet the administrative burden of families implementing the four-semester study plan and submit these for approval to the QCAA. Further, the QCAA deals with schools, it is also unclear whether they will be able to meet the administrative burdens of dealing with hundreds of home educators who need to have study plans approved to implement them in line with the QCAA syllabuses.

Best interest of the child

Queensland has the highest growth in registered home educators in Australia; experiencing a 194% increase in the five years to 2023, data show significant numbers of homeschool families do not register (English, 2023) with suggestions that between 50% and 80% of the total home educating population are unregistered (Euka, nd; Tablelands Home Education, nd). Under-registration is a long-term problem, with the ABC suggesting there were 170% more Queensland homeschoolers than officially registered in 2012 (Townsend, 2012). Similarly, in 2003, when a review was conducted into homeschooling in Queensland, data (Jeffrey & Giskes, 2004) showed significant numbers of families were not registered. The 2006 legislation covering homeschoolers was an attempt to correct that under-registration (Jeffrey & Giskes, 2004).

It may be that the legislative change, in relation to the 'cult' that seems to be underpinning the move to strengthen curriculum and reporting requirements for home educators, is a response to these data. However, it appears to fundamentally misunderstand parents' reasons for choice, as noted above, and the idea of the best interest of the child, noted in Section 7 (da)(i) and taking into account their safety and wellbeing.

First, **a perceived failure of schools to ensure the safety and wellbeing of their students are known drivers to home education** (English et al., 2023). Bullying, for example, and the schools' perceived failure to keep children safe either through failing to manage bullying and other issues (such as in the English et al. paper where a participant reported the school lost a child's EpiPen and the participant reported finding it under some chairs in the school hall) is not consistent with keeping children and young people safe. As Neuman (2021) noted, **if schools were effective in keeping young people safe and secure, they would stay in schools**. In addition, anxiety is often linked to schooling issues and is also an issue with regards to keeping children safe (see Riley, 2023).

Second, one of the main outcomes of schools' reported failure to keep children safe is the increase in school refusal. The numbers of **young people refusing school has increased** so much that it was the topic of both a Federal Senate Inquiry (Clark, 2023) and a senator's survey (Duffy, 2023). Senate Inquiry data from 2022 show more than half of all Australian students were attending less than 90% of school days (Clark, 2023) while the senator's survey released to the ABC showed that 39% of parents had experienced school refusal, where the child would not attend school at all (Duffy, 2023).

School refusal is associated with severe emotional distress experienced while attending school where, despite repeated attempts to remedy the situation through school interventions, the symptoms disappear only when the child stays home (Havik & Ingul, 2021). **This legislative change**, and its attempt to **replicate a school-like setting in the home**, is **not likely to be effective** with this community, which may be up to 80 per cent of the home education population. The cohort of school refusing students seeking a non-school approach is driving the growth in home education (English, 2021a; 2021b).

The effect of school refusal is often described as dire. For example, recent research (Lamb & Huo, 2017) suggested it costs the Australian economy ~\$13 billion annually. School refusal is said to risk unemployment and isolation for the school refusing young

person (Havik & Ingul, 2021). It impacts the parents of the school refuser who must stay home to look after the child. Schools are affected because they are tasked with implementing interventions that are frequently unsuccessful (Duffy, 2023).

However, it is unlikely to be as dire as the above suggests. The 2023 survey suggested school refusers are (1) not engaging in anti-social behaviours, (2) not hiding their absences and (3) happy to learn at home in a more relaxed and less ‘school like’ manner (Duffy, 2023). The Senate Inquiry (Clark, 2023) and survey (Duffy, 2023) showed there are many reasons a child refuses school, and many events that lead to it, however, we do not understand enough about the issue (Black, 2023). But, we do know they are frequently found in the home education population (English, 2021a; 2021b). Despite school refusal numbers increasing post-pandemic (Clark, 2023), current approaches tend to endeavour to ‘force’ school refusers back to school (Heyne, 2022) with ‘tough love’ strategies that do not work (Duffy, 2023; Fisher, 2023). **Research in home education (Moir & English, 2022), suggest increasing enrolments in home education are driven by students exiting schools which, as recent international (Fisher, 2023) and Australian (Duffy, 2023) research shows, is preferred by school refusers because home education is unlike school.**

Third, **home education has been found to have positive outcomes for the child that experiences it** (Ray, 2021) regardless of the curriculum approach taken (highly structured to unstructured), with the likely positive effect being the interventions of the parent (Martin-Chang & Levesque, 2017). A review of the literature in the field (Valiente, Spinrad, Ray, Eisenberg & Ruof, 2022) argued it was effective. Valiente et al. (2022) noted methodological limitations in many studies suggesting homeschooling outperformed traditional or mainstream approaches. However, they cited research (Murphy, 2012; National Education Association, 2020; Ray, 2017) which **showed there is no evidence it places children in any risk of harm, or at risk of more harm than other educational approaches** (including mainstream school, unregistered schools, specialist schools or religious schools). They stated, “we do not find systematic evidence that homeschoolers typically experience problematic academic or socioemotional outcomes” (Valiente et al., 2022, p. 52) regardless of the curriculum

approach implemented. Further, as Hamlin and Cheng (2022) found, research indicates no statistical difference between short and long term homeschoolers to argue that **the practice does not negatively affect the social or educational opportunities of homeschoolers** in the USA regardless of the approach the parents take. **As such, the use of curriculum is not positively correlated with success in home education, home education is successful because the child is educated at home.**

Interestingly, in a large review of the literature, Kunzman and Gaither (2020, p. 304) argued that the issue at play in both research and legislative spaces is that, homeschooling [continues] to challenge modern conceptions of schooling, education, and the family. Conventional categories of schooling, curriculum, and achievement will continue to blur, shifting not only participants' conceptions of education but very likely broader society's as well (Lees, 2011).

Concluding statement

As Kunzman and Gaither (2020, p. 304) stated, "**Homeschooling ... pushes us to consider ... the purposes of education more broadly**". This point is likely to be at issue in this legislation and may be the root of the issue here, homeschoolers and the department see education differently.

What it means to be an educated and productive member of the Queensland population in 2024, and beyond, appears to be a significant, if unstated, concern of this legislation. However, the approach proposed to be legislated in this bill is **likely to have only one impact: driving homeschoolers underground** as they consider questions of education, of productive social membership, of democracy and of choice more deeply, in part due to their reported negative experiences in schools.

It is incumbent on governments to consider not just how to better legislate these families so that they can be monitored and discouraged from joining 'cults' but really contemplate the deeper issues around what it means to be an educated citizen in 2024

and beyond and whether schools are able to provide that in every instance. **The growth in home education**, here in Queensland where the numbers of legally registered home educators have grown 194% in the five years to 2023 but also across the world, **suggests that schools are not meeting parents' evaluations of Section 7(da)(i)(ii) of the legislation as they are not perceived to be providing an education in the best interests of the child or young person taking into account their safety and wellbeing; and the school did not ensure the child or young person received a high-quality education.** As noted above, if schools were perceived to work, parents would keep their children and young people enrolled in them.

Considering the points made here will help the state ensure its ability to follow and monitor home educators more effectively than increasing the burden of compliance with curriculum that has already been rejected by vast numbers of the home education population. Bringing them back into the legal fold, and encouraging compliance, will require a softer touch than evidenced here.