

Education (General Provisions) and Other Legislation Amendment Bill 2024

Submission No: 1643
Submitted by: SHEN - Sydney Home Education Network
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

Sydney Home Education Network

www.shen.org.au

shen@shen.org.au



Submission re: Inquiry into Education (General Provisions) and Other Legislation Amendment Bill 2024

SHEN - Sydney Home Education Network is a volunteer-run organisation providing connection and support to home-educating parents in NSW through events including Swimming and Athletics carnivals, information and support. Our volunteers include a mixture of new and highly experienced home educators, and currently has a membership base of 320, and serves a much wider community including nearly 2000 active members on our Facebook group.

SHEN makes this submission in response to the proposed changes to the current home education legislation in Queensland, and calls for meaningful consultation, engaging all interested parties, and leading to the best possible outcomes for home educating families and the government.

In particular, SHEN:

- Opposes the strict requirement for ACARA approved Syllabuses, and reporting on all 8 KLAs;
- Recommends that parents be allowed to tailor their home education to suit their child, choosing the most appropriate learning opportunities;
- Recommends that university level courses be an option in the home education pathway;
- Opposes the removal of provisional registration unless it is replaced by full registration granted on application with very basic information and no plan required until 3 months later;
- Opposes the introduction of a requirement for parents to demonstrate that home schooling is in the best interests of the child;
- Calls for part-time school enrolment with homeschooling registration to be allowed;
- Calls for proper widespread consultation with all interested parties, including all parents currently registered for homeschooling and leaders in the home-educating community, including an ongoing home education consultative group, as was recommended in the 2003 Queensland Homeschooling Review.

1. Using the Australian Curriculum or other ACARA approved curriculum.

The Australian Curriculum and other ACARA approved curricula are designed for use in schools, not the home setting.

Home educated students benefit from being able to learn through programs tailored to meet their needs, by their parents, who know them best. Students who experience disability or who have special learning needs (including giftedness) are overrepresented amongst home-educated students. There should not be any requirement to adhere to a strict ACARA approved curriculum, at the risk of limiting the highly individualised, high-quality education already being provided by home educating parents.

A huge variety of disabilities are represented amongst children who are currently being home educated in Australia. Whilst a high proportion of home educated students experience disability, the true prevalence is unknown as State or Federal Government education authorities do not collect this data. Students with a disability are commonly home educated because parents believe that schools will be unable to meet their needs or because schools have been demonstrably unable to meet their needs or to protect them from harm. Home education can provide students who experience disability with an education that meets their educational, social and emotional needs, while providing the supports the students need to thrive. This highly individualised approach has been able to reignite a love of learning in children who have become disengaged from education through adverse school experiences. For example,

“My son was diagnosed with anxiety disorder and OCD. He was initially given funding but then had it removed. Throughout year 2 he was averaging 2 days a week at school. The school did try, but in the end we were told he could not continue on a partial basis. We would have been happy to keep him there part-time but the options we were given were distance ed or a special unit which was not an option. He was shattered from the experience, felt that he had failed, hated that he was seen as different to the other kids. He completely disengaged from learning, hating it, but we are slowly bringing him back.”

Home education allows gifted children to learn at higher academic levels, or asynchronously, without facing the challenges posed by their age and size.

“Our daughter is gifted. We had the best case scenario for school: interested student, engaged parents, well resourced school and a teacher with qualifications in gifted education. She was accelerated into year 2 but her class work required more handwriting than her 5 yo hands could keep up with. Although the teacher knew that our daughter was bored (especially in maths), there was nothing more to be done because of her handwriting. Also, other kids in the class were already up to 25 cm taller and 3 years older. So, we home educate. It is absolutely in the best interests of our child, her education is matched to her abilities and interests and her variable skills are irrelevant.”

Home educated students with a disability have been able to achieve well beyond previous expectations. In some cases special needs that constituted a severe disability in a school are unimportant in the home education environment. For example,

“I chose to home educate my child from year 1 as I realised he was struggling to learn to read and felt that he needed one to one attention in this area. It took him about 5 years to become a competent reader but that was no impediment to his overall education. He is now 15 and on track for tertiary study with a healthy self esteem. I believe that home education gave him the opportunity to learn at his own pace and in his own time without the pressure of tests and the comparison to others. To me, home education is nothing short of a miracle.”

There is no reason to expect that these students will be best served by requiring strict adherence to ACARA approved syllabuses, particularly as University level courses will be precluded by the proposed legislative changes.

2. University studies should be accepted as part of a homeschooling plan

In order to access the most appropriate learning opportunities as part of their high quality education, and to eventually provide a pathway to further education and work, a variety of learning opportunities, including university level courses are employed by home educating families. For example,

“One of the most important things that my university studies taught me was that the content of what you learn is often not as important as the process of being able to learn and that learning where and how to access information is an important skill. This view helped to focus my goals within our home learning. I knew that what was important was that my children knew how to access the resources and information they needed. I was

able to see this in action as my son's abilities in some areas surpassed my own knowledge. Together we were able to access opportunities for continuing his learning - this included participating in the Australian Mathematics trust training programs, national competitions, open source university courses as well as Open University. Even though I did not previously (and still don't) have the knowledge that he required, this view of education meant it was possible to access high quality opportunities to expand and consolidate the knowledge he required. Similarly with my other children, homeschooling enabled me to facilitate opportunities for learning both within my own spheres of knowledge and also in areas where I might not previously have had experience. In turn this has helped them to take on a level of responsibility for their own learning and to gain skills in developing goals for their learning and then finding pathways to achieve the necessary skills and knowledge."

A variety of pathways, including access to university studies, not only provides a high-quality education but also a pathway to further education and work. A variety of methods of transition to work and university are employed by home educating families. While some home educated students go to high school for years 11 & 12, many undertake TAFE or university courses while registered for homeschooling, among other pathways. A survey of 137 students conducted by the Home Education Association Inc. for their submission to the NSW Parliamentary Inquiry into Homeschooling in 2014 indicated that perhaps 30% of home educated students used Open University or other online University courses as a Pathway to further education and employment.

Parents in NSW often enrol their child in one or more university courses through Open Universities, or even on campus, to help meet their children's learning needs, but the requirement to develop a plan, based on the 6 KLAs of the NSW Syllabus, has meant that parents are forced to demonstrate how a University course fits into this Syllabus, creating unnecessary stress at registration time.

SHEN recommends that changes to Qld home education legislation not limit educational opportunities, or exclude university studies, but allow parents to continue to choose the most appropriate learning opportunities as part of tailored learning plans providing a high quality education for home educated children.

3. Proposals to remove provisional registration.

Children who have become anxious or depressed to the point of suicidality or self harm and those who have experienced physical or sexual abuse in schools require immediate removal from that environment. As documented in federal and state parliamentary inquiries, these experiences appear to be more common for students who experience disability. The recent senate inquiry into school

refusal called for flexible approaches to school education. Where provisional registration doesn't exist, children are forced to remain in school to the detriment of their well-being or are subject to the stresses and difficulties of being considered as truanting.

In Queensland it can be seen that not only have numbers of home educated students increased, but registration statistics have improved. Looking at the Tables below, in Queensland in 2016, the ratio of home educated students per 1,000 full-time school students was only 2.3, whereas in 2023 it was 11.4. This represents an improvement in comparison with other states:

Table 7 (2016). Home schooled children as a ratio of all full-time school 'all-affiliations' ^[5]			
Australian state or territory*	All full-time school students	Registered home educated students	Ratio of home educated students per 1,000 full-time school students
Australian Capital Territory	65,954	252	3.8
New South Wales	1,180,041	3,517	3
Northern Territory	40,412	74	1.8
Queensland	784,224	1,770	2.3
South Australia	262,233	1,200	4.5
Tasmania	80,172	894	11.1
Victoria	913,562	4,136	4.5
Western Australia	404,096	2,826	7
Australia Total	3,730,694	14,510	3.9

^[5] Compiled from data gathered from Australian Bureau of Statistics, Report 4221.0 Schools, Australia, 2015. Released 18th March 2016, as well as from home education statistics from the regulatory body of each jurisdiction.

Table 1 (2023). Home educated students as a ratio of all full-time school students ^[1]

Australian state or territory*	All full-time school students			Registered home educated students	Ratio of home educated students per 1,000 full-time school students
	Government	Non-government	Total all schools		
Australian Capital Territory	46177	30476	76653	465	6
New South Wales	786434	462695	1249129	11,554	9.2
Northern Territory	29198	10710	39908	152	3.8
Queensland	570251	307399	877650	10048	11.4
South Australia	172137	104911	277048	2443*	8.8
Tasmania	54329	26728	81057	1441	17.7
Victoria	657252	378730	1035982	10481	10.1
Western Australia	298308	151255	449563	6466	14.38
Australia Total			4086990	43050	10.5

^[1] Compiled from data gathered from Australian Bureau of Statistics, Australian Bureau of Statistics (2023), Schools, ABS Website, accessed 24 March 2024, as well as from home education statistics from the regulatory body of each jurisdiction. *latest available figures

This improvement may be attributed to several factors, including improved perceptions of the regulatory system, and increasing awareness of Section 207 'provisional registration' allowing parents to simply write a letter to receive provisional registration, which must be granted under that section, in part due to homeschooling organisations recommending this option. Improved engagement in the registration system should be valued by the Queensland government. Removing provisional registration will have a negative effect, increasing numbers of 'unregistered homeschoolers', which are already a significant phenomenon in Queensland.

Many students are home educated because of traumatic school experiences related to bullying or mental health issues. Often these parents have tried everything else before coming to the realisation that home education is their only remaining option. There is a need for these parents to have a quick way to change from mainstream school enrolment to home education.

In NSW, the application process for home education is long - up to 12 weeks, and at times longer. NSW does not have provisional registration, and consequently parents and children, who may have had stressful experiences with schools, are subject to significant unnecessary additional stress simply in trying to register, often involving many phone calls and emails with school staff, and Education Department officers, visits to doctors for medical certificates and more. This stressful process does not assist in the education of the student and negatively affects well being. At times parents have become overwhelmed and even moved interstate to avoid this stressful homeschooling registration process, with many becoming 'unregistered homeschoolers'. Section 207 provisional registration in Queensland has meant that parents can avoid this stress, resulting in increasing engagement with, and families remaining in, the regulatory system.

It has been very helpful to Queensland parents to have an easy way to begin home education through having provisional registration granted once the application is submitted. Thus, parents can meet their educational responsibility while caring for their child's physical, mental and emotional well-being.

In other states where there is provisional registration, or full registration on receipt of a simple application providing basic details, such as exists in ACT and WA, this is important to help parents 'get on the register'. The value of such provision was upheld in the ACT which addressed this concern in their legislation updated in 2019. It was initially proposed to remove provisional registration, but after discussions with home educators, the ACT Education Directorate and the Legislative Assembly were apprised of the important role of 'provisional registration' and their alterations were much improved - providing full registration on receipt of the application form (a simple form with birth certificate and proof of residence in ACT attached), with a 'Statement of Intent' and a video meeting required within three months of submitting the application <https://www.education.act.gov.au/schooling/home-education/new-registrations>.

SHEN recommends that quick access to registration for homeschooling continue to be available in Queensland. If it is determined to remove Section 207 and 'provisional registration' which must be granted on application in writing, then the best alternative is to provide quick access to full registration via a simple process providing the important details of the student and parents, and then within a reasonable period of three months require the parent to provide other details about how they plan to meet the requirements.

4. Requirement to show that homeschooling is in the best interests of the child.

Homeschooling is never chosen lightly and is often only chosen after all other options have been exhausted. Parents are best placed to determine what is best for their child and have the responsibility of providing them with education. A requirement to demonstrate that homeschooling is in the best interests of the child, and have these reasons evaluated by the regulator is contrary to this parental responsibility. The NSW Education Act 1990 is based on these principles -

“4 Principles on which this Act is based

In enacting this Act, Parliament has had regard to the following principles—

- (a) every child has the right to receive an education,
- (b) the education of a child is primarily the responsibility of the child’s parents,
- (c) it is the duty of the State to ensure that every child receives an education of the highest quality,
- (d) the principal responsibility of the State in the education of children is the provision of public education.

5 Principal objects of this Act

The principal objects of this Act are as follows—

- ...(d) to allow children to be educated at home,”

As article 26 of the Universal Declaration of Human Rights puts it “3. Parents have a prior right to choose the kind of education that shall be given to their children.”

Queensland education legislation should support the right of parents to choose the education that best suits their child.

SHEN recommends that the Queensland legislation also recognise that parents as those primarily responsible for the education of their children have the right to choose the kind of education that is most appropriate.

5. Part time school with registration for homeschooling not allowed

Part-time enrolment in school with part-time registration for home education is available in Victoria, Tasmania and the Australian Capital Territory. The Northern Territory allows part time enrolment in school with part-time home education for senior students. South Australia has a system whereby part-time school attendance can be negotiated for home educated students. NSW legislation does not prohibit part time school enrolment with registration for homeschooling. Queensland legislation should not prohibit this option.

In every jurisdiction, arrangements are individually facilitated by parents with the relevant school principal and are at the discretion of the school principal.

Arrangements vary widely but the following scenarios are common:

- Students attending school at a regular weekly time from one afternoon to two or three days a week
- Students attending school every day for part of the day
- Students attending school for particular subjects such as music, art, drama or a language
- Students attending school in order to access sport, including sporting carnivals

Part-time school attendance with part-time home education is most common where children have special needs of some kind including disability or giftedness. The suggestion that school be undertaken part-time is often initiated by school teachers and principals. The following example shows that a lack of access to part time school enrolment may limit the educational opportunities available.

“My daughter is legally blind, has an intellectual disability and has been diagnosed with anxiety and depression. She was home educated for many years but when she was in 4th class we sent her to school because she’s a very social child and wanted to be more with other kids. We had also had difficulty in accessing the resources that she needed like large print photocopying and closed circuit television because of the expense. She attended school for 5 years and it was Ok for her until year 8 when her anxiety and the pressure of performing academically at school became too much and we took her out. The school principal was really understanding and suggested that perhaps she could be home educated for the academic subjects and attend school for the electives, dance and

drama, which she loved and excelled at. Obtaining large print books and printouts also became problematic and expensive with no assistance. She was also informed that she could not attend the annual Vision Camp after she left school. This camp had been fantastic for her as it was the only time in her life that she'd been with a large group of children who were similarly visually impaired. Her Vision Itinerant teacher had offered to take her anyway but this also was not allowed. Whilst homeschooling took some of the academic pressure off in year 9, my daughter felt very socially isolated and this made her depression worse. Had she been able to do electives at the local high school and attend Vision Camp I believe her year 9 experience would have been a much more positive one."

Part time school should not be excluded by legislation as it may contribute to a high quality education for some children. Part time school enrolment with homeschooling would also support the recommendation 5 of the Senate Inquiry into *The national trend of school refusal and related matters*. In that inquiry, recommendation 6.37 stated:

"The committee recommends that state and territory education authorities and the non-government school sector investigate ways to increase the flexibility of education delivery, including by:

- identifying ways to enhance flexibility in mainstream school settings for children going through school refusal;*
- facilitating easier access to distance education and home schooling for students experiencing school refusal"*

In NSW, while the legislation does not specifically exclude part time school enrolment with registration for homeschooling, NESA and Department of Education policy has been to not allow part time school enrolment. This has meant that children have not had access to a range of opportunities that school students can access, including hospital schools, the specialist languages school and more. SHEN supported a recent case at NCAT which found that NESA policy was unnecessarily limiting students.

SHEN recommends that Qld education legislation allow the option of part time school enrolment with homeschooling registration.

6. Lack of Consultation

The Government did not engage in meaningful consultation regarding these proposed legislative changes. The failure of the Government to consult with home educators in the drafting of legislative changes is contrary to the processes of good government. The first indication that currently registered home educators had regarding the changes was not until March 2024, by which time a small consultation had occurred, mainly with homeschooling businesses. On this date, certain home educators were notified of the proposed amendments and allowed only a few weeks to provide feedback. Despite having the contact details of all registered home educators, the Home Education Unit did not notify the broader home education community of the proposed legislative changes or invite them to participate in the consultation. We believe that had the Government engaged in meaningful consultation in the development of the proposed legislation that the problems described here could have been avoided.

The OECD has also recognised the importance of appropriate regulatory design, noting that compliance with policy is affected by three things - (1) understanding of the rules, (2) the perceived benefits of compliance with the rules and (3) enforcement activities. Rules must be seen to be comprehensible, and beneficial, and palatable by those they are designed to affect. The Queensland government recognised these issues in its home education legislation as the result of a review in 2003. The report noted that high levels of unregistered home educators were a sign that regulation did not meet the needs of those being regulated.

“The current processes and practices surrounding home schooling approval are not aligned with the existing Order-in-Council, and parents, in the absence of a supportive environment, are choosing in increasing numbers to operate outside of the law. This they do with great reluctance as for all intents and purposes, they are otherwise law-abiding citizens.”

SHEN recommends that a proper consultative body should be set up, as was recommended in the 2003 Queensland Homeschooling Review over 20 years ago. It is to the detriment of home educating families and the regulator that this body wasn't set up then. This body exists in other states. SHEN recommends following the model of the VRQA home education consultative body in Victoria, VHEAC - Victorian Home Education Advisory Committee, which has a meaningful role, participates in the approval of home education plans, and provides input to staff appointments. An article about how this body works, written by an outgoing member is here - <https://home-ed.vic.edu.au/the-victorian-home-education-advisory-committee/>.

SHEN considers that without allowing for greater flexibility of education and easy access to registration through provisional registration, or full registration without the requirement for a plan until

3 months into the registration, the Queensland legislation may once again become a central cause of non-compliance in the home education community.

It may be considered a testimony to the law-abiding nature of home educators that so many do persevere in the registration process despite the high costs and low benefits. Educational theory and regulatory theory, stakeholders and government policy on regulation all oppose the system proposed in the draft legislation.

SHEN makes these recommendations, in the hope that changes to legislation around home education in Queensland will be exemplary - serving home educating families, providing the best outcomes for children and encouraging engagement in the regulatory system. Once proper consultation occurs, and as a result, legislation is presented that makes registration easy, and allows for proper flexibility of learning opportunities, tailored to the individual needs of the child, then SHEN considers that Queensland home educators would continue to engage in the regulatory system and compliance would continue to increase.

Submission made on behalf of SHEN

Vivienne Fox

President