

16 September 2014

Ms Rosemary Menkens MP
The Chair
Education and Innovation Committee
Parliament House,
BRISBANE QLD 4000

By post and email: eic@parliament.qld.gov.au

Dear Ms Menkens

**Queensland Catholic Education Commission (QCEC)
Response to the Education and Other Legislation Amendment Bill 2014**

We refer to your letter dated 28 August 2014. The Queensland Catholic Education Commission (QCEC) is grateful for the opportunity to provide comment and recommendations on the *Education and Other Legislation Amendment Bill 2014 (EOLAB 2014)*.

QCEC is the peak body at state level for twenty Catholic school employing authorities with 144 000 students and around 17 000 employees.

The response which follows places a particular focus on the amendments to the *Education (General Provisions) Act 2006*, *Education (Accreditation of Non-State Schools) Act 2001 (the Accreditation Act)* and the *Education (Queensland College of Teachers) Act 2005*.

The QCEC response represents the views of the Commission which have been informed by consultation and advice from Catholic school authorities.

Once again, QCEC wishes to reaffirm that Catholic school authorities are fully committed to ensuring the safety of children and young people in Catholic schools in Queensland and the delivery of quality education to students with a wide range of needs in the context of sound governance structures.

This means that Catholic school authorities are also committed to being fully compliant with all legislative requirements.

Should the committee require oral input to support or clarify matters raised in this response, QCEC would be pleased to arrange for representatives to address the committee at its convenience.

I commend the following response to the Committee.

Yours sincerely



Mike Byrne
Executive Director

Submission to the Education and Innovation Committee (EIC) of the Parliament of Queensland

Education and Other Legislation Amendment Bill 2014 (EOLAB 2014)

1. Letters Patent Schools

It is noted that the *EOLAB 2014* proposes amendments to the *Education (Accreditation of Non-State Schools) Act 2001* (Accreditation Act) which seek to clarify the governance arrangements for non-state schools being operated by corporations established by letters patent under the repealed *Religious Educational and Charitable Institutions Act 1861*.

QCEC Response:

QCEC acknowledges that there has been a divergence of views about how the holders of director positions are identified for some school governing bodies under the Accreditation Act requirements. It is acknowledged that the *EOLAB 2014* amendments are designed to provide clarity and will allow a governing body established by letters patent to nominate persons, additional to the letters patent office holders, as directors for the purposes of accreditation. This would be optional, so that any governing body established by letters patent may choose to maintain the status quo and not nominate additional persons as directors.

I wish to advise that QCEC has consulted with the corporations established by letters patent that operate schools about these amendments, as follows:

- The Roman Catholic Trust Corporation for the Diocese of Rockhampton
- The Roman Catholic Trust Corporation for the Diocese of Townsville
- The Corporation of the Roman Catholic Diocese of Toowoomba
- The Corporation of the Trustees of the Roman Catholic Archdiocese of Brisbane

With respect to this matter, these corporations have agreed that QCEC will provide this response on their behalf.

Following legal advice on the text of the draft legislation, QCEC agrees that the amendments would provide clarity and allow a governing body established by letters patent to nominate persons, additional to the letters patent office holders, as directors for the purposes of accreditation.

It is noted that this would be optional, so that any governing body established by letters patent may choose to maintain the status quo and not nominate additional persons as directors.

Given all of these factors, QCEC supports the draft amendments in relation to letters patent, as proposed, with one exception.

Failing to notify the Accreditation Board of nomination of additional directors

It is a positive feature that that any governing body established by letters patent has options in the matter of additional directors and may choose to maintain the status quo and not nominate additional persons as directors.

It is sensible to require that a governing body of a letters patent school give the Accreditation Board a written notice signed by each of the current declared directors advising the Accreditation Board that it has nominated an additional director under new section 7AA(b)(ii).

However, the Bill specifically creates an offence for failing to provide the notice within 14 days of the nomination with a maximum penalty attached to the offence of 20 penalty units.

It would appear that this penalty would apply only to a governing body of a letters patent school and not to other governing bodies.

The only reference to the application of a similar penalty appears under Section 167 (2) (e) of the Accreditation Act which requires that the governing body must within 14 days notify the board of “any other change in the governing body’s, or school’s, circumstances prescribed under a regulation”.

QCEC is unaware of a regulation which specifically prescribes a ‘change of director’ under the category of “any other change in the governing body’s, or school’s, circumstance”.

While the Parliament will make its own judgement about the need for a penalty for failure to comply with legislation, there would seem to be a lack of consistency in legislation when a specific penalty for a specific breach is applied to one type of governing body and not others.

2. Special Assistance Schools

It is noted that the *EOLAB 2014* proposes amendments to include ‘special assistance’ as a type of education under the Accreditation Act and that these amendments will also allow for the establishment of a temporary site by a special assistance school.

QCEC Response:

QCEC supports the establishment of a temporary site by a special assistance school but seeks clarification regarding the possibility of non-special assistance schools establishing a temporary site and, if this is not possible, QCEC would also seek clarification of the reasoning behind limiting this ability solely to special assistance schools.

It is noted that the *EOLAB 2014 states that* the assistance will not be able to be granted under the *Education (Capital Assistance) Act 1993* for a temporary site.

QCEC Response:

This stipulation is supported.

In relation to eligibility for government funding, it would appear that the Board may accredit a school as a special assistance school but that a recommendation not be made for eligibility for government funding.

QCEC queries whether the legislation takes account of the situation where a school is accredited as a special assistance school but does not receive the State Government recurrent funding rate reserved for special assistance schools.

In addition, QCEC would appreciate some clarification about the way in which this situation would relate to Australian Government recurrent funding, which also relies on the classification of a school as a special assistance school.

It is understood that the operational details for these changes are not primarily in the Accreditation Act but are proposed to be included in the *Education (Accreditation of Non-State Schools) Regulation 2001*. Given this, **it will be important that comprehensive consultation be undertaken in respect of amendments to the Regulation.** Of particular relevance will be:

➤ **Special assistance school accreditation criteria:**

Given the unique nature of special assistance schools, these criteria will need to be catered specifically for their role and functions. This is particularly true in relation to the criterion of 'education program' which should recognise that students attending these schools typically learn in a different manner and at a different rate.

➤ **Temporary site criteria:**

It is noted that a temporary site may be operated for a maximum period of 95 consecutive school days before an application must be lodged for accreditation of the site. While this period is considered reasonable, it is important to recognise that unexpected events can happen and that contingency arrangements are likely to be required, even if only in a very limited number of cases. Given this, it is recommended that the ability to grant an extension to the 95 day period on a one-off basis be included in the legislation for the Non-State Schools Accreditation Board.

It is recommended that the ability to grant a one-off extension to the time period in which a temporary special assistance schools site can operate be included in the amendments.

Additionally, a requirement that a temporary site be 20 kms or more from a special assistance school appears to be an arbitrary figure that could lead to incongruities in practice. For example, if the site is 21 kms from a special assistance school, will this be allowed?

In reality a distance requirement adds little to the functioning of the legislation. A special assistance school is unlikely to start a temporary site next to its existing school. In this respect, the 20 kms distance stipulation does not appear to perform a useful function in the legislation and could be profitably removed.

It is recommended that the distance restriction on temporary special assistance school sites be removed from the proposed amendments.

➤ **Minimum enrolment numbers:**

While QCEC supports making minimum enrolment number requirements site-specific, further consideration will need to be given as to the precise figures to be utilised for individual special assistance school sites. Given the distinctive nature of these schools' operations and particularly the need for low staff/students ratios, if education provision is to be effective, a degree of flexibility is required in respect of student numbers.

Overall, QCEC is supportive of the proposed amendments to the Accreditation Act in relation to special assistance schools. As stated above, additional consultation will be required as to how these amendments are made operational through amendments to the *Education (Accreditation of Non-State Schools) Regulation 2001*.

3. Directions to hostile persons

It is noted that the amendments regarding this matter in the *EOLAB 2014* build upon powers already granted under the *Education (General Provisions) Act 2006* for principals and governing bodies to issue directions to hostile persons on school grounds to leave and not re-enter for a specified period of time. These powers, including the ability for a principal to issue a verbal direction, are considered suitable for the appropriate management of school sites.

It is also noted that similar amendments are proposed in relation to the management of this issue in state schools.

QCEC Response:

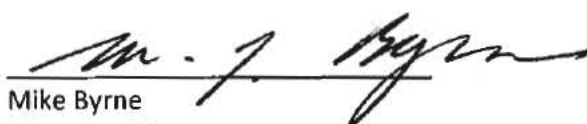
QCEC supports the appropriateness of these amendments.

4. Compulsory schooling exemption

These amendments provide for principals of non-state schools to grant exemptions from compulsory schooling requirements of up to 110 days and that exemptions for a longer period than this will still need to be granted by the Director-General of Education. It is noted that any exemptions granted will need to be registered by a school's governing body and the register of exemptions must be maintained for a period of five years.

QCEC Response:

QCEC supports the general intention of these amendments.



Mike Byrne
Executive Director
16 September 2014