



17 June 2016

Department of
Education and Training

Ms Sue Cawcutt
Research Director
Education, Tourism, Innovation and Small Business
Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Cawcutt

I refer to the recent public departmental briefing to the Education, Tourism, Innovation and Small Business Committee (the Committee) on 13 June 2016 on the Education and Other Legislation Amendment Bill 2016 (the Bill).

The purpose of this letter is to:

- answer a query from the Committee regarding the geographic and demographic breakdown of those children who are currently not attending Prep; and
- clarify queries around removing the requirement for the Queensland Civil and Administrative Tribunal (QCAT) to hear certain disciplinary matters within 14 days.

Prep data

The Chair of the Committee requested the Department of Education and Training (the Department) provide a geographic and demographic breakdown of children who are not participating in Prep. Of the approximately 400 state school children who have not participated in Prep in 2015 approximately 17% are Indigenous and the largest proportion are from metropolitan areas (63%).

Timeframes for QCAT hearings

During the departmental briefing, questions were asked about the removal of the requirement for QCAT to hear particular disciplinary matters within 14 days. Similar questions were asked of the Queensland Teachers Union during the public hearing held by the Committee on 15 June 2016.

The following information is provided to confirm the proposed reforms around teacher suspension and the timing of QCAT hearings to assist the Committee in its deliberations.

Current law – *Education (Queensland College of Teachers) Act 2005* (the Act)

QCAT hears and decides serious disciplinary matters referred to it by the Queensland College of Teachers (the College) - that is, matters likely to involve suspension or cancellation of a teacher's registration.

Education House
30 Mary Street Brisbane 4000
PO Box 15033 City East
Queensland 4002 Australia
Telephone 303 44764
Website www.dete.qld.gov.au

The College can also suspend a teacher's registration where there are serious risks to the safety and wellbeing of students. The College must suspend a teacher's registration under section 48 if the person is charged with a serious offence. Disciplinary action against such teachers is taken by QCAT once the charge has been dealt with (for example, once the teacher has been convicted of the offence).

The College may also suspend a teacher's registration under section 49 if the College reasonably believes the teacher poses an imminent risk of harm to children and it is necessary to immediately suspend their registration to protect children. When a teacher's registration has been suspended by the College under section 49, the College must immediately refer the teacher to QCAT to determine what disciplinary action should be taken against the teacher (section 97(3)).

Section 133(4) of the Act prescribes the timeframes within which QCAT must hear disciplinary matters. Where the College has suspended a teacher registration under section 49, QCAT's hearing must be set down within 14 days after the teacher was suspended. This aimed to ensure that a final decision is made in relation to the teacher's registration in a timely manner, given a person cannot work as a teacher while their registration is suspended. For other disciplinary matters referred to QCAT, a hearing must be set down no earlier than 14 days after the person is notified by the tribunal about the proposed hearing (section 133(4)).

Minor disciplinary matters, where the outcome is likely to be a warning or reprimand, are considered by the College's internal disciplinary committee (the Professional Practice and Conduct Committee). The Act does not impose timeframes around disciplinary hearings of the internal committee.

Proposed amendments

Amendments proposed in the Bill aim to strengthen the ability of the College to protect the safety and wellbeing of Queensland students by enhancing its capacity to suspend teacher registration where there are serious concerns about harm to children. In this regard, the Bill amends section 49 to lower the threshold for suspension of a teacher's registration from 'imminent risk of harm' to 'unacceptable risk of harm' (clause 33). QCAT will immediately review the decision to suspend a teacher's registration under section 49 (clause 36)

The Bill removes the requirement for the College to immediately refer a teacher, whose registration has been suspended by the College under section 49, to QCAT to consider disciplinary action against them. It also removes the requirement for QCAT to hear a matter referred to it within 14 days of the teacher's suspension.

These changes will enable the College to finalise investigations into the teacher's conduct, including where necessary, awaiting the outcome of school or police investigations, before deciding to progress disciplinary action against the teacher through to QCAT. However, with a lower threshold for suspension of registration, the College will be able to ensure the person is not working as a teacher with children while it is gathering the necessary evidence for the final disciplinary considerations.

The process for progressing disciplinary action against a teacher, whose registration has been suspended under the revised threshold, will be as follows:

- If, after reviewing the teacher's suspension, QCAT confirms the suspension, the College must as soon as practicable either:
 - authorise an investigation to determine if a ground for disciplinary action against the teacher exists; or
 - refer the matter to the relevant disciplinary body, where the College reasonably believes there is a ground for disciplinary action (clause 39);

- where the College determines there is no ground for disciplinary action, following an investigation, the College must cancel the suspension (clause 35); and
- if the matter is progressed to QCAT as a serious disciplinary matter, QCAT must hear the matter at least 14 days after giving notice of the hearing to the teacher (clause 93).

The Bill does not change the process for referral and consideration of minor disciplinary matters by the College's internal disciplinary committee.

Please feel free to contact Mr Stuart Busby, Director, Legislative Services Unit by telephone on [REDACTED] or by email to [REDACTED] if you would like further clarification around these reforms.

Yours sincerely



ANNETTE WHITEHEAD
Deputy Director-General
Policy Performance and Planning

Ref: 16/275757