



**SUBMISSION TO**

**EDUCATION AND TRAINING LEGISLATION**

**AMENDMENT BILL 2011**

**SEPTEMBER 2011**

## **INTRODUCTION**

Associated Christian Schools (ACS) was established in 2010 by Principals of Independent Christian Schools who strongly desired to be associated together as peers engaged in similar roles. It was established as a non-profit organisation to encourage, represent and promote the welfare of Independent Christian schools. Associated Christian Schools (ACS) recognises the diversity in organisational structure of our member schools. Some of our schools are connected with standalone churches, others with traditional denominations, others are completely independent. Associated Christian Schools (ACS) currently represents 29 member schools, with approximately 18,500 students enrolled.

Associated Christian Schools (ACS) members are also members of Independent Schools Queensland, and support the activities of this organisation.

## **ORGANISATIONAL PRINCIPLES**

Associated Christian Schools are characterised and informed by the following principles:

- We value the diversity of Australian faith based schools, with respect to governance, diversity of faith, and independence, and the respect of parents in their choice of school for the education of their children.
- That faith based schools continue to be autonomous and independent, in the interpretation and instruction of schools and the ability to teach within their own educational and faith based interpretation, compliant of accountability requirements to state and federal governments.
- We support the ability of faith based schools to be innovative in their practices to demonstrable improvements in student learning.

Associated Christian Schools acknowledges and appreciates the support provided by the Queensland Government of Independent Christian schools. We also value the opportunity to make this submission, on behalf of Associated Christian Schools, to the Industry, Education, Training and Industrial Relations Committee.

## GENERAL COMMENTS

Associated Christian Schools endorses the aim of the Education and Training Legislation Amendment Bill 2011 (Qld), which is to protect the safety and wellbeing of Queensland students, by making amendments to the current provisions on the mandatory reporting of sexual abuse and teacher registration. ACS support initiatives for continuing improvements to policies and procedures, for subsequent communication to all schools and organisations that have the responsibility for the education and care of children. As Independent Christian schools, our members support the Declaration of the Rights of the Child, so that *“the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration”* (1959; p. 2).

## PROPOSED AMENDMENTS TO MANDATORY REPORTING OF SEXUAL ABUSE

Associated Christian Schools strongly endorses initiatives to provide improved protection for children. Member schools currently comply with legislative requirements relating to the care and protection of children, as outlined in Commission for Children Young People and Child Guardian Act 2000 (Qld) and the Section 366 of the General Provisions Act, requiring staff members to report sexual abuse of suspected sexual abuse. Expanding the statutory reporting requirements acknowledges the profound damage that is caused to children and young people by sexual abuse. In addition, there will be a closer alignment with other states in Australia, as currently many allied health professionals, such as Social Workers, who work with schools, remain unclear on the legal requirements regarding reporting suspected child abuse (<http://www.aasw.asn.au/whatwedo/ethics-faqs>). The proposed changes reinforce the duty of care that schools have to report and prevent sexual abuse. As reported by the Australian Government Australian Institute of Family Studies *“Mandatory reporting, and the publicity associated with its introduction, has been found to increase public awareness of child abuse, both within mandated professional groups and within the community at large”* (<http://www.aifs.gov.au/nch/pubs/sheets/rs3/rs3.html>).

The reporting obligations will still only apply to students of the school under 18 years or students with a disability being provided with special education. However, the Bill will expand the reporting obligations to circumstances where a staff member reasonably suspects the sexual abuse has been perpetrated by any person. Associated Christian Schools seeks clarification of the term “any person”, as it is obviously broad, and would include sexual abuse by fellow students, guardians/parents and other persons. In addition, both “sexual abuse” and “likely” are not defined in the legislation, and will take their ordinary meanings. For the meaning of “sexual abuse”, reference to whether the activity is unlawful would be relevant (for example, if the student was under the age of consent). We therefore seek clarification and articulation regarding this aspect of the Legislation.

As in the existing legislation, a person who makes a report under these provisions is protected from any criminal, civil or administrative liability, including defamation. This is a welcome protection, particularly where the staff member is reporting “likely” sexual abuse.

The Explanatory Notes acknowledge that a school owes a common law duty of care to students under which there is a positive obligation to take all reasonable steps to minimise the risk of foreseeable harm. The Explanatory Notes makes the further conclusion that “a likelihood of sexual abuse is foreseeably a matter schools ought to be considering in development of any risk management strategies, policies or procedures aimed at ensuring their common law duties are met”. Associated Christian Schools is particularly concerned regarding this conclusion, as it implies that the common law duty of care owed by a school to students includes identifying and reporting likely sexual abuse, irrespective of the source of the sexual abuse. This legislation could be relied upon by a court when considering the extent of the duty of care owed by schools in civil cases.

## **POWER TO DELEGATE A DIRECTOR'S REPORTING FUNCTION**

The Bill also provides a Non-State School's governing body with the power to delegate its reporting function to an appropriately qualified individual.

ACS is concerned about the implications on the Governing Board of member schools, when delegating their responsibilities, as they remain liable for a breach of the delegate's reporting obligations. Given the governance structure of the majority of our schools, whereby the delegation of authority is to the Principal, the implications of this proposed delegation need to be given careful consideration.

## **TEACHER REGISTRATION**

Associated Christian Schools supports this proposed amendment to the legislation, to automatically cancel a teacher's registration upon conviction for a serious rather than disqualifying offence, irrespective of whether an, order of imprisonment has been imposed, taking account of an 'eligibility application'.

## **DISCIPLINARY ORDERS OF QCAT**

Associated Christian Schools supports the proposed amendment that enables QCAT to make disciplinary orders to prohibit a person from applying for registration or for permission to teach for a stated period of time or for life.

## **UNIVERSITY LAND HELD IN TRUST**

Associated Christian Schools has not provided comment on this part of the proposed legislation as we do not consider that its members are impacted by the proposed legislation.

## **SUMMARY COMMENTS**

Associated Christian Schools acknowledges that the Queensland Government has a constitutional obligation to safeguard children and schools are strategically positioned to support this obligation. Associated Christian Schools strongly urges the Queensland Government to consider the comments and suggestions, and concerns expressed in this response.

Associated Christian Schools strongly urges the Queensland Government to maintain, as a fundamental principle, opportunities for faith-based schools to preserve their diversity, flexibility in delivery of faith, culture and values, and independence.

Lynne Doneley  
Executive Officer  
Associated Christian Schools  
September 2011

## REFERENCES

- Blaskett, B. and Taylor, C. (2003) *Facilitators and inhibitors of mandatory reporting of suspected child abuse : a research study*. Criminology Research Council Grant; (9/01-02). Retrieved 2 September 2011 from <http://www.criminologyresearchcouncil.gov.au/reports/200102-09.html>
- Commission for Children Young People and Child Guardian Act 2000 (Qld)*. Retrieved 12 September 2011 from <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/C/CommisChildA00.pdf>
- Education (General Provisions) Act 2006 (Qld), 366*. Retrieved 2 September 2011 from <http://www.legislation.qld.gov.au/Bills/53PDF/2011/EducTrainLAB11.pdf>
- Education and Training Legislation Amendment Bill 2011, Explanatory Notes*. Retrieved 2 September 2011 from <http://www.legislation.qld.gov.au/Bills/53PDF/2011/EducTrainLAB11Exp.pdf>
- United Nations Convention on the Rights of the Child*. Retrieved 2 September 2011 from <http://www.unicef.org/crc/>