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The Research Director  
Industry, Education, Training and Industrial Relations Committee  
Parliament House,  
George Street  
BRISBANE QLD 4000

Level 10 Sherwood House  
39 Sherwood Road  
Toowong Qld 4066

PO Box 389  
Toowong Qld 4066

[www.qct.edu.au](http://www.qct.edu.au)

T 07 3377 4777  
F 07 3876 7248

## **SUBMISSION ON THE EDUCATION AND TRAINING LEGISLATION AMENDMENT BILL 2011**

On behalf of the Board of the Queensland College of Teachers (the QCT), the following comments and matters are submitted for consideration by the Committee in relation to the Education and Training Legislation Amendment Bill 2011 (the Bill) introduced by the Minister for Education and Industrial Relations into the Legislation Assembly on 2 August 2011.

The policy objectives of the Bill concerning amendment of the *Education (Queensland College of Teachers) Act 2005* (the EQCT Act) were considered by the Board in the context of the following issues:

- The Board is of the view that teachers [that is, holding teacher registration at the relevant time] found guilty of a serious offence [as detailed in the *Commission for Children and Young People and Child Guardian Act 2000* and applied to the EQCT Act] but not sentenced to imprisonment should have their teacher registration automatically cancelled. However, the Board came to that position acknowledging the Bill's intention to provide for teachers in that category to re-apply for registration through a two step process of seeking an eligibility declaration and then applying for registration.
- In the case of teachers found guilty of a serious offence and for which a sentence of imprisonment is imposed, the Board's view is that teachers in that category should have their teacher registration automatically cancelled and those teachers should be permanently barred from "re-applying" for registration.
- In the case of a person who is not and has never been a registered teacher:
  - If found guilty of a serious offence and not sentenced to imprisonment, the Board's view is that the person should be allowed to apply for registration and have that registration considered using the using the two step process proposed in the bill – application following eligibility application determination;
  - If found guilty of a serious offence and sentenced to imprisonment the Board's view is that the person should never be allowed to apply for registration but with some reservation. The situation with respect to orders of juvenile detention and imprisonment needs to be clarified. It is possible for a juvenile/youth to be convicted of a serious offence and given their age at the

time for transfer to an adult correctional facility to serve a part of the juvenile detention order.

The Board's positions detailed above were premised on the Bill's proposal to have the amending provisions apply only prospectively and not retrospectively. In doing so the Board believed that the current provisions of the EQCT Act should be applied to teachers currently holding registration.

Suitability to teach is an eligibility requirement for registration as a teacher in Queensland and part of that consideration is a person's criminal history. Section 11(2) of the EQCT Act provides that where a person has been convicted of a serious offence that person must be found not suitable to teach unless the QCT is satisfied that an exceptional case exists in which it would not harm the best interests of children for that person to teach.

There are seven currently registered teachers working in Queensland schools who have convictions for serious offences but for which no imprisonment was ordered. Outcomes of those matters included convictions not being recorded, imposition of good behaviour bonds, probation, community service and admonishment and discharge.

Given the seriousness of the offences however, four of those teachers have had the suitability to teach requirement considered specifically by the Board under the exceptional case criteria in the process of applications for renewal of registration. One teacher is to have their case considered by the Board at its September meeting. It is perhaps notable that the composition of the Board reflects a range of stakeholders including major teacher employing authorities, Union representatives, representatives of Parents and Friends Associations, practising teachers from the State and non-State sectors elected by registered teachers and a nominee of the Minister.

The remaining two teachers were registered after the establishment of the QCT on 1 January 2006 and those cases were considered by the Board established Suitability to Teach Committee comprised of three Board members of which two are registered teachers. The consideration of those cases was again under the exceptional case criteria.

Other than as above, the QCT has received one other application for registration in which the applicant had a conviction for a serious offence. In that case the applicant was found not suitable to teach and registration was refused.

Since Board consideration of the policy objectives above, the QCT is aware that the Minister has written to the Committee advising that he proposes to introduce further amendments that would require cancellation where there was a conviction for a serious offence irrespective of when that conviction occurred. In that event, the registration of the teachers already considered as detailed above, would have to be cancelled and those teachers would be required, should they seek to be re-registered, to utilise the two-step eligibility declaration/application process in which each step of the process requires exceptional case consideration.

Whilst the amendments proposed might not be considered in the legal sense to be retrospective, any cancellation action of the teachers' registration will have at the least an adverse effect of those teachers employment as a teacher as they would not be able to be employed as a teacher during any period of cancellation. Consideration might be given by the Committee as to whether this group of teachers (that is teachers holding registration at the time of the commencement of any amendments) should in effect be required to seek re-

registration on the same basis as they have already been granted registration with associated loss of income and fees and costs for the eligibility declaration/application process.

The aim of the Bill concerning strengthening reporting of sexual abuse is supported. However, there is one aspect of the amendments about which the Committee may wish to consider whether clarification is required. That relates to the wording of the requirement (in sections 365A and 366A) to report when there is a reasonable suspicion that a child under 18 years at the relevant school "is likely to be sexually abused by another person" and whether that terminology used is sufficiently clear to enable a staff member to determine that a reporting obligation has arisen.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Ryan', with a horizontal line extending to the right.

John Ryan  
Director