

**Education (Strengthening  
Discipline in State Schools)  
Amendment Bill 2013**

**Report No. 24**

**Education and Innovation Committee**

**October 2013**

## Education and Innovation Committee

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## Acknowledgements

The committee thanks those who briefed the committee, made submissions, gave evidence and participated in its inquiry. In particular the committee acknowledges the assistance provided by the Department of Education, Training and Employment.

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## Abbreviations and definitions

CSI	Community Service Intervention
DIP	Discipline Improvement Plan
QAI	Queensland Advocacy Incorporated
QLS	Queensland Law Society
QPPD	Queensland Parents for People with a Disability Inc
QSPA	Queensland Secondary Principals' Association
the Bill	Education (Strengthening Discipline in State Schools) Amendment Bill 2013
the committee	Education and Innovation Committee
the department	Department of Education, Training and Employment
YAC	Youth Advocacy Centre Inc

## Chair's foreword

This report presents a summary of the committee's examination of the Education (Strengthening Discipline in State Schools) Amendment Bill 2013.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

A number of issues were identified by inquiry participants, which the committee considered in conjunction with evidence provided by the department, including the departmental response to submissions. Outstanding issues for which we have made recommendations for the Minister relate to the policy and procedures documents connected to the Bill, recognition of suspension and exclusion as a disciplinary option of last resort, recognition of early intervention strategies and data about suspension and exclusion and the use of alternative education centres.

On behalf of the committee I thank those individuals and organisations who lodged written submissions on this Bill, and others who have informed the committee's deliberations: officials from the Department of Education, Training and Employment, the committee's secretariat, the Parliamentary Library and the Technical Scrutiny of Legislation secretariat.

The committee makes seven unanimous recommendations, and the recommendation that the Bill be passed is supported by the majority.



Rosemary Menkens MP  
**Chair**

October 2013

## Recommendations

- Recommendation 1** **2**
- The committee recommends that the Education (Strengthening Discipline in State Schools) Amendment Bill 2013 be passed.
- Recommendation 2** **5**
- The committee recommends that the Minister for Education, Training and Employment ensures that policy and procedures specify actions that students, their families and school communities can take in the event there is concern that a principal is misusing the power granted to them under the Bill, for example through using suspension for minor misdemeanours and before exhausting early intervention and positive behaviour management strategies.
- Recommendation 3** **7**
- The committee recommends that the Minister for Education, Training and Employment ensures adequate guidance is provided to support state school principals to make a decision about suspending or excluding a student for criminal behaviour, including what information might be relevant, and how to manage any implications for the criminal justice system.
- Recommendation 4** **8**
- The committee recommends that the Minister for Education, Training and Employment amends the Bill to recognise that suspension and exclusion are discipline options of last resort.
- Recommendation 5** **10**
- The committee recommends that the Minister for Education, Training and Employment confirms that the policy and procedures will provide for early intervention strategies, positive behaviour management strategies and evidence-based practice.
- Recommendation 6** **19**
- The committee recommends that the Minister for Education, Training and Employment identifies in a quarterly data publication, in respect of suspensions and exclusions (see recommendation 7), the number of excluded students who receive education through alternative education centres.
- Recommendation 7** **23**
- The committee recommends that the Minister for Education, Training and Employment publishes suspension and exclusion data every quarter by gender, Indigenous status, racial minority, children and young people with a disability and children and young people in the child protection system.
- Recommendation 8** **25**
- The committee recommends that the Department for Education, Training and Employment actively communicates changes to policy and procedures documentation through email notification and newsletters.

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## 1. Introduction

### 1.1 Role of the committee

The Education and Innovation Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012, consisting of government and non-government members.

The Education Legislation Amendment Bill 2013 (the Bill) was referred to the committee on 20 August 2013, and the committee is required to report to the Legislative Assembly by 9 October 2013.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

### 1.2 Inquiry process

The Education (Strengthening Discipline in State Schools) Amendment Bill 2013 was introduced into the Queensland Parliament and referred to the committee on 20 August 2013. The committee was briefed by the Department of Education, Training and Employment (the department) on 28 August 2013, and received 22 submissions from stakeholders (see Appendix A). The committee held a public hearing on 20 September 2013 at Parliament House and heard from 15 witnesses (see Appendix B). Transcripts of briefings and hearings and submissions received and accepted by the committee are published on the committee's webpage at [www.parliament.qld.gov.au/eic](http://www.parliament.qld.gov.au/eic).

### 1.3 Policy objectives of the Bill

The Bill intends to amend the *Educational (General Provisions) Act 2006* (the Act) to support the implementation of initiatives to strengthen discipline in Queensland state schools by:

- providing principals with stronger disciplinary powers and more flexibility and autonomy around the making of discipline decisions,
- bolstering the grounds for suspension and exclusion, and
- reducing administrative burdens to enable quick and firm responses to problem behaviour.<sup>1</sup>

The Bill also aims to reduce the number of suspensions and exclusions from state schools.<sup>2</sup>

Following passage of the Bill, the department has advised that it would develop and implement an action plan to:

- strengthen principals' disciplinary powers;
- cut principals' red tape, allowing them to focus on teaching students,
- foster innovation in school discipline, and
- assist school students who are most in need.<sup>3</sup>

### 1.4 Should the Bill be passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed.

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<sup>1</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p1

<sup>2</sup> Ibid, p3

<sup>3</sup> Minister for Education, Training and Employment, media release, *Red tape cuts to allow principals to get tough*, 20 August 2013

After examination of the Bill, consideration of submissions and the further information provided from the department, the committee is satisfied the Bill should be passed. The committee has made further specific recommendations and points for clarification in relation to the Bill throughout this Report.

**Recommendation 1**

The committee recommends that the Education (Strengthening Discipline in State Schools) Amendment Bill 2013 be passed.

## 2. Examination of the Education Legislation Amendment Bill 2013

### 2.1 Policy issues

#### New head of power

The Bill introduces a head of power for principals to control discipline, to ensure “... principals have responsibility and power to control and regulate student discipline at their school. This provides principals with broad and flexible powers to implement discipline environments and strategies in their schools.”<sup>4</sup> When the Minister for Education, Training and Employment introduced the Bill he noted that the Bill results from the government’s education reform plan Great Teachers = Great Results, which aims to strengthen school discipline and boost school autonomy.<sup>5</sup>

The key reason for strengthening discipline is provided in the Great Teachers = Great Results action plan as, “[s]chools are required to be safe and supportive environments, though principals are weighed down by red tape in dealing with difficult behaviour.”<sup>6</sup> Actions to enhance disciplinary power include:

- Implement an action plan for strengthened discipline in state schools,
- Introduce behaviour contracts with students and families [disciplinary improvement plans],
- Increase principals’ discipline powers,
- Streamline suspension and exclusion processes, and
- Use alternative school environments for students with chronic behaviour concerns.<sup>7</sup>

At the public hearing, the department told the committee that the new head of power for principals confirms their authority in the school and:

*... gives principals a clear, broad, flexible head of power to impose disciplinary interventions appropriate to their local circumstances. This also enables principals to develop and implement a greater range of disciplinary interventions than are currently available under the act. For example, community service interventions and discipline improvement plans are two innovative disciplinary strategies that can be utilised under this new broad head of power.*<sup>8</sup>

Queensland Parents for People with a Disability Inc (QPPD) expressed concern about the level of power that individual principals would have under the Bill, the negative attitudes of some individual principals towards some students and the detrimental impact of these attitudes on students:

*It has been the experience of parents that judgments about their child’s behaviour vary from school to school and principal to principal, depending on the attitude of the person involved ... Policies and guidelines are not a strong enough safeguard against the impact of individual judgment ... If it is deemed necessary to broaden principals’ powers, it is critical that legislation remain in place to protect vulnerable students from such severe action as suspension and exclusion.*<sup>9</sup>

<sup>4</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p2

<sup>5</sup> Minister for Education, Training and Employment, Hansard, 20 August 2013, pp2599-2600

<sup>6</sup> Queensland Government, Great Teachers = Great Results - A direct action plan for Queensland schools, p5

<sup>7</sup> Ibid, p12

<sup>8</sup> Department of Education, Training and Employment, public briefing transcript, 28 August 2013, p2

<sup>9</sup> Submission 10, Queensland Parents for People with a Disability Inc, p1

QPPD commissioned research in 2010 to investigate parents' experience of inclusive education in Queensland schools. 179 parents of children with disability were surveyed, and the report concluded that:

*... schools can be inclusive and that children can be valued and participating members of their local communities. However just over a third of survey respondents are not able to access education on the basis of equal opportunity and are not at the school of the[ir] parents' choice. Parents described barriers to enrolling in their school of choice including direction to a different school, negativity at the preferred school, the need for significant parent input to achieve enrolment in a regular school and a lack of support or expertise available at the preferred school. A number of parents had opted for special schools. QPPD believes the regular system has failed these families.<sup>10</sup>*

The department considers it would be a 'folly' for a principal to:

*... consistently exercise his power without really strong underlying communication and confidence for the parents about the person being able to make these decisions. We have performance management processes around the whole of school performance through leadership. We will clearly take into account the way behaviour is managed and the feedback we are getting from communities. There are opportunities for us to work with leaders if these things are not working in a way that is productive in enhancing the current level of suspension and exclusion.*

*... This provides flexibility, but we still need to manage performance and we still need to look at data and evidence to make sure that this is in the long term reducing recidivism in terms of students being consistently suspended.<sup>11</sup>*

The committee was told of evidence that "... suspension is often used for minor offences ..." The University of Queensland considers "... this is likely to become more of an issue when there is no outside influence moderating its use."<sup>12</sup>

The Queensland Teachers' Union (QTU) recommends that the department "... ensure that new principals and school leaders receive appropriate professional development and mentoring."<sup>13</sup>

In response to a request for additional information, the department told the committee that it would "... continue to monitor school performance data, including suspension and exclusion numbers of individual schools..." and that the complaints process will remain available to school communities, whereby "... school based concerns are progressed to the local regional office ..."<sup>14</sup>

#### **Committee comment**

The committee welcomes the new head of power for principals to control their school's discipline to ensure the approach they take best addresses local circumstances.

The concerns raised by some inquiry participants around potential misuse of this new power are acknowledged by the committee. The committee believes that most principals are community leaders and have the best interests of their students and school community at heart, and frequently go beyond the call of duty to ensure the wellbeing of their students. However, it would be idealistic to assume that all principals acted this way. The safeguards against misuse of principals' powers include collection and publication of suspension and exclusion data, discipline audits, the availability of the departmental complaints process and the performance management process.

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<sup>10</sup> Queensland Parents for People with a Disability Inc, *Diving for Pearls*, p2

<sup>11</sup> Department of Education, Training and Employment, public hearing transcript, 28 August 2013, p8

<sup>12</sup> Submission 14, University of Queensland, School of Education, p2

<sup>13</sup> Submission 21, Queensland Teachers' Union, p7

<sup>14</sup> Department of Education, Training and Employment, correspondence, 30 September 2013, p3

The committee considers it would be helpful for the policy and procedures to specify actions that students, their families and school communities can take in the event there is concern that a principal is misusing the power granted to them under the Bill, for example through using suspension for minor misdemeanours and before exhausting early intervention and positive behaviour management strategies.

The committee strongly believes that good communication with students, their families and school community; implementation of early intervention strategies and behaviour plans for both the school and individuals where required, are the foundation of good school discipline and achieving good outcomes for students. The importance of suspension and exclusion are also acknowledged by the committee as playing an essential role in school discipline when used as a last resort.

### **Recommendation 2**

The committee recommends that the Minister for Education, Training and Employment ensures that policy and procedures specify actions that students, their families and school communities can take in the event there is concern that a principal is misusing the power granted to them under the Bill, for example through using suspension for minor misdemeanours and before exhausting early intervention and positive behaviour management strategies.

## **Suspension and exclusion**

### ***Suspension when charged with an offence or a serious offence***

The explanatory notes explain that new grounds for suspension are introduced by the Bill when a student is charged with a serious offence or another offence:

*... in circumstances where it would not be in the best interests of other students and staff at the school for the student to attend the school while the charge is pending. A serious offence is an offence prescribed in the Commission for Children and Young People and Child Guardian Act 2000. This includes sexual offences such as rape, drug trafficking, armed robbery, torture, kidnapping and attempted murder.<sup>15</sup>*

Suspension would not be mandatory upon being charged with an offence. In the department's response to submissions, it noted that:

*The grounds for suspension and exclusion have been bolstered in response to principals' concerns that the existing grounds are not broad enough to enable them to respond to student misbehaviour in the way expected by their school communities.<sup>16</sup>*

The expanded grounds for suspension that would be introduced by the Bill were compared with similar provisions in other states and territories. It seems that Queensland would be unique in permitting suspension as a result of being charged with an offence or a serious offence that is not connected with the school.<sup>17</sup>

Brisbane Youth Education and Training Centre Parents and Citizens Association (BYETC) highlights that if students are excluded from a school based on criminal behaviour, for which they have already been punished by the courts, they may in effect be punished twice:

*While there are relevant circumstances for a young person who has offended to be excluded from a school (for example if this is connected to their offending) we need to consider the broader implications to which the proposed reforms may lead. If a young*

<sup>15</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p4

<sup>16</sup> Department of Education, Training and Employment, response to submissions, p11

<sup>17</sup> Queensland Parliamentary Library and Research Service, Research Brief, Student Discipline, 10 September 2013, pp1-2

*person engaged with the Youth Justice system was excluded from a school based on past criminal behaviour for which they have received and completed the court determined consequences, they are effectively punished twice for the 'one' offence and their rehabilitation into the wider community is affected negatively.*<sup>18</sup>

The Queensland Law Society (QLS) considers that the new grounds for suspension are:

*... inconsistent with the presumption of innocence. There have been no decisions on the facts of any allegations being made at the stage of a student being charged, and a suspension can adversely affect the student, especially if charges are later dropped or the student is not convicted.*<sup>19</sup>

The QLS also highlights that “[u]nder the Youth Justice Act 1992 a court or police officer must consider the need to ensure that if the child is released, the child will not, for example, commit an offence or endanger anyone’s safety or welfare. Further, we note s48 of the Youth Justice Act 1992 sets out a number of considerations for the court or police office with regard to bail or other related matters. The court or a police officer is required to consider the safety of others as part of the decision for a person to be released on bail.”<sup>20</sup>

At the public hearing, the QLS expressed concern that the provisions in the Bill duplicate the role of courts and the police and noted other factors that are taken into consideration after a young person has been charged. These include “... the character, the criminal history, the relevant history, the home environment, employment and background”.<sup>21</sup>

The department acknowledges that whether a person is guilty of an offence or not is a matter for the courts to determine, however, does not consider that these amendments pre-empt the administration of justice. It also notes that a similar provision is currently in legislation for the exclusion of mature age students who are convicted or charged with offences in certain circumstances<sup>22</sup>, and since 2011, with respect to suspension of teacher registration for teachers charged with serious offences.<sup>23</sup> The department told the committee that “[t]he principal will not contradict bail conditions and is not pre-empting the court decision by taking action in the interests of the safety and well-being of staff and students at the school.”<sup>24</sup>

The department expressed concern that a court and the police are unlikely to be “... informed by a detailed consideration of the duty of care obligations of school principals, the supervisory burden that may be placed on the school administration, school community concerns ... or the nature and extent of alternative educational options ...”<sup>25</sup>

### **Committee comment**

The committee notes that if this provision were to pass into legislation, Queensland would be the only jurisdiction in Australia that provides for the suspension of students for actions unrelated to the school. The decision to suspend would not be mandatory, and the committee believes that given the range of safeguards as outlined in respect of recommendation 2, such as the performance management process, discipline audits and the publication of data, principals would make the best decision for the student and the school community.

The committee notes that this provision is consistent with the approach taken for teachers who are charged with a serious offence, which uses the same definition as referred to in the Bill.

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<sup>18</sup> Submission 15, Brisbane Youth Education and Training Centre Parents and Citizens Association, p1

<sup>19</sup> Submission 11, Queensland Law Society, p4

<sup>20</sup> Ibid

<sup>21</sup> Queensland Law Society, public hearing, transcript, 20 September 2013, pp11-12

<sup>22</sup> Department of Education, Training and Employment, response to submissions, p11

<sup>23</sup> *Education (Queensland College of Teachers Act) 2005*, p56

<sup>24</sup> Department of Education, Training and Employment, correspondence, p2

<sup>25</sup> Ibid, p2

The *Education (Queensland College of Teachers) Act 2005* was amended in 2011 so that teachers charged with a serious offence have their registration to teach immediately suspended. Advice from the QLS to the former Industry, Education, Training and Industrial Relations Committee was similar in respect of that legislation.

With regard to the concerns raised about the possible duplication by principals of a decision by the courts or the police, the committee understands the department's response to mean it will continue to take decisions, such as suspending a student, that are in the best interest of the school community, even if this is inconsistent with a bail condition that a student attends school. It is unclear whether policy and procedures will provide for this type of situation, such as providing guidance to principals on how to best make such a decision and any communication that may be required between the school and the courts or police.

### **Recommendation 3**

The committee recommends that the Minister for Education, Training and Employment ensures adequate guidance is provided to support state school principals to make a decision about suspending or excluding a student for criminal behaviour, including what information might be relevant, and how to manage any implications for the criminal justice system.

### ***Exclusion for conviction of an offence***

The explanatory notes state that the Bill introduces new grounds for the exclusion of a student who has been convicted of an offence when:

*... it would not be in the best interests of other students or staff for the student to be enrolled at the school. This provides clear power to remove students (not only mature age students) from schools who have been convicted of an offence, but only if the student's continued enrolment is not in the best interests of the school community.*<sup>26</sup>

The department told the committee that a decision to exclude students on the basis of being convicted of an offence is up to each individual principal and is not mandatory:

*Principals have the discretion to exercise the power to exclude – it is not a mandatory decision based upon the conviction. They need to apply the additional test about the best interests of students and staff at the school. Principals will take into consideration risk assessments conducted by other agencies when exercising their discretion. The Department acknowledges that suspension and exclusion are a last resort.*<sup>27</sup>

The Minister for Education, Training and Employment also noted that exclusions are “... considered to be a last resort ...”<sup>28</sup>

The QLS is concerned that “... the proposed changes diminish the requirement placed on the education system to ensure students continue to engage with education.”<sup>29</sup> At the public hearing, the QLS further explained:

*... the experience of our membership is that young people who have been excluded or suspended from school have not been given adequate alternative proposals when that has happened. They have not been provided with that. We are particularly concerned again about young people from rural and regional areas because of the difficulties in providing those alternatives. Certainly, young people being suspended or excluded from*

<sup>26</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p4

<sup>27</sup> Department of Education, Training and Employment, response to submissions, p22

<sup>28</sup> Minister for Education, Training and Employment, media release, 28 April 2013, p1

<sup>29</sup> Submission 11, Queensland Law Society, p5

*schools can often have to travel. An alternative school may be hundreds of kilometres away from where those young people are attending.*<sup>30</sup>

The QLS recommends that legislation ensure that students can participate in alternative education. The provision of alternative education is considered in more detail on page 17.

#### **Committee comment**

The committee notes this new provision, and that it is not mandatory for principals to exclude students who are charged with an offence (other than a serious offence, as defined). In addition to considering what is in the best interest of the students and school community, a key consideration for principals should be the student's access to alternative education options, which are considered later in this report.

Given the concerns raised, and the Minister and department's acknowledgements that suspensions and exclusions are discipline options of last resort, the committee considers that the Bill would be strengthened and concerns allayed if this was included as a provision in the Bill.

#### **Recommendation 4**

The committee recommends that the Minister for Education, Training and Employment amends the Bill to recognise that suspension and exclusion are discipline options of last resort.

#### ***Behaviour outside the school and outside school hours***

The Bill expands the grounds for suspension and exclusion "*... to cover conduct occurring outside the school that adversely affects or is likely to adversely affect other students or the good order and management of the school; or where the student's attendance poses an unacceptable risk to the safety or wellbeing of other students or staff of the school.*"<sup>31</sup>

The QLS is concerned that principals may make decisions to exclude students without all the relevant facts:

*... given that the conduct occurred in private circumstances and beyond the bounds of the school environment and without proper investigation. We can foresee a number of practical concerns in relation to this, not the least of which is how the information is obtained by the principal and by the school and do young people need to ultimately compromise their defence in relation to criminal actions because they are being questioned by the school in relation to those matters.*<sup>32</sup>

#### **Committee comment**

The committee notes that the Bill expands the grounds for suspension and exclusion to include student behaviour that occurs outside the school grounds and outside school hours. The committee considers this an appropriate discipline option for principals, and notes that the use of this option is not mandatory. This provision simply provides an option to principals to use, if it is considered to be in the best interest of their school community; and the safeguards such as discipline audits and the publication of data, as referred to in recommendation 2, will help to ensure accountability beyond the school community.

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<sup>30</sup> Queensland Law Society, public hearing, transcript, 20 September 2013, pp10-11

<sup>31</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p4

<sup>32</sup> Queensland Law Society, public hearing, transcript, 20 September 2013, p9

## Short suspensions

The Bill increases the length of time permitted for short suspensions imposed by a school from up to 5 days to a maximum of 10 days:

*Principals can currently suspend a student for a 'short term' of up to five school days or a 'long term' of between six and 20 school days. As is the case currently under the EGPA, a student only has a right of review against long term suspensions. The Bill will increase the short suspension period from up to five school days to a period of up to 10 school days, making the long term suspension period 11 to 20 school days. This will act as a stronger deterrent for student misbehaviour and signal to students and parents the authority of principals in state schools.*<sup>33</sup>

At the public briefing the department told the committee that students will not have a right of review of a decision to suspend a student for 10 or less days. The department considers that “[t]his will serve as a strong signal to students and parents that inappropriate behaviour will not be tolerated and reinforces the authority of the principal in the school.”<sup>34</sup>

Queensland Advocacy Incorporated (QAI) considers that “[i]ncreasing the short term suspension to ten days will place an unreasonable burden on working parents who may have to take two weeks’ leave with potential for loss of employment to supervise children who are suspended for this increased time.”<sup>35</sup>

Youth Advocacy Centre Inc (YAC) highlights the impact that suspension and exclusion on a short or long term basis can have on young people:

*Being suspended or excluded on a short or long term basis can have a serious effect on an individual young person’s education and life chances as well as on the community more broadly ... Without an education, young people can find it difficult to gain employment and consequently experience financial difficulties. There seems to be a strong correlation between early leaving from school, criminal activity, poverty, unemployment and homelessness.*<sup>36</sup>

A retired teacher considers that “[s]hort effective suspensions would, /should be less expensive than long drawn out suspensions which would quickly lose their meaning.”<sup>37</sup>

Students suspended for up to 10 days will not have the right of review of these decisions, other than judicial review. The department noted that “... departmental policy will provide guidance to principals regarding due process and natural justice.”<sup>38</sup>

In the departmental response to submissions it noted that the Bill inserts the new obligation to ensure continuing access to education for students who are suspended:

*For short suspensions the provision of an education program may be a continuation of work already set or relevant schoolwork as happens now. For long suspensions (11-20 days) schools are required to appoint a school-based case manager, who can liaise with the student and their family and ensure access to an educational program.*<sup>39</sup>

<sup>33</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p4

<sup>34</sup> Department of Education, Training and Employment, public briefing, 28 August 2013, p2

<sup>35</sup> Submission 20, Queensland Advocacy Incorporated, p4

<sup>36</sup> Submission 22, Youth Advocacy Centre Inc, p8

<sup>37</sup> Submission 13, Name suppressed, p1

<sup>38</sup> Department of Education, Training and Employment, response to submissions, p14

<sup>39</sup> Ibid, p13

### Committee comment

The committee notes the increase in the maximum period of short suspensions to ten days and the concerns raised by some inquiry participants. These include the potential burden placed on working families, the short and longer term impact on students and the absence of a right of review of these decisions.

While noting that a short term suspension will not automatically be increased to ten days – the length of time is to be determined by the principal - given the concerns raised by inquiry participants, and the importance of good behaviour management strategies implemented before a student is suspended, the committee considers it would be appropriate for the Minister to confirm that the policy and procedures will provide for early intervention strategies, positive behaviour management strategies and evidence-based practice.

### Recommendation 5

The committee recommends that the Minister for Education, Training and Employment confirms that the policy and procedures will provide for early intervention strategies, positive behaviour management strategies and evidence-based practice.

### Out of school hours discipline

The Bill introduces a new provision that allows for detentions, Community Service Interventions (CSI) and actions under a Discipline Improvement Plan (DIP) to be implemented on a non-school day. At the public hearing, the department advised that provisions which provide for discipline on a non-school day enable:

*... individual schools to tailor discipline solutions that suit that context. I cannot predict how many schools will take up these options, but it is the provision of these options that gives flexibility. So it could well be that certain schools for particular reasons will want to invoke this at different times. We are already aware of schools that have been flexibly piloting some opportunities to do this. Again, the purpose of the changes in the act is really to give schools greater flexibility and to enable them to think about whether those solutions would be possible.<sup>40</sup>*

The QLS expressed concern that parameters currently required by the Act with regard to detention, such as time limitations and informing parents of the proposed period of detention, are not included in the Bill:

*We consider these parameters are important in ensuring that detention is imposed in a reasonable way which does not interfere with a child's ability to get safe transportation home and for parents or carers to be informed about the child's whereabouts.<sup>41</sup>*

Other factors that the QLS considers important with regard to Saturday detentions are provisions for “... emergency situations, adequate staffing levels, workplace health and safety issues and that the child's safety is paramount.”<sup>42</sup> At the public hearing, the QLS noted “... there are significant issues that need to be considered ...” in relation to public liability and accident insurance for students doing some community service or other activity away from the school:

*I suppose each of us has had some experience in terms of the ability of young people to be able to engage in particular types of community service as part of their youth justice orders where they have shown a particular interest in an area and yet they have been*

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<sup>40</sup> Department of Education, Training and Employment, public hearing, transcript, p5

<sup>41</sup> Submission 11, Queensland Law Society, p3

<sup>42</sup> Ibid, p2

*unable to complete community service in that environment because they have not had appropriate insurance or appropriate protections and safeguards in place so they have not been able to undertake that.*<sup>43</sup>

Dr Judith Howard, a behaviour management specialist, questions who will staff and monitor detention that takes place on a non-school day, and what would happen if a student or their family refused to engage in the intervention. The impact on the workload of the principal is identified as a possible impact of these changes.<sup>44</sup>

The University of Queensland does not consider these provisions to be workable:

*Principals have no inherent authority over students out of school hours. The proposed change does not specify what activities can be demanded of young people after school hours and weekends and holidays. This is a punitive measure that is likely to further exacerbate young people's disengagement from schooling, thereby exacerbating the primary issue, which is to ensure engagement with education and the social and economic benefits that follow from this for the whole community.*<sup>45</sup>

QAI highlighted practical issues relating to out of school hours discipline, such as transport and supervision:

*The onerous task for teacher and parents to supervise and transport students for out-of-school-hours detentions and community service will far outweigh the current burdens attaching to procedures for suspension or any disciplinary responses. Such a measure is incongruent with time conservation and the notion of reducing red tape and will not progress any improvement with students/school relationships.*<sup>46</sup>

The impact of out of school hours discipline on teachers' working conditions was highlighted by the QTU. The QTU noted that it:

*... opposes any change to teachers' working conditions that would involve supervising detentions outside of rostered duty time. The Teachers' Award – State 2012 states that:*

*a. s6.7.1(a) Rostered duty time will commence no earlier than 8:00am and conclude no later than 5:00pm; and*

*b. s6.7.1(c) The weekly rostered duty time may be worked over less than 5 days Monday to Friday.*

The QTU also highlights concern for the wellbeing of QTU members required to supervise a student undertaking a CSI, including that they may be the subject of vexatious claims.<sup>47</sup>

### **Committee comment**

The committee notes the new provision that will allow for the implementation discipline such as detentions, CSIs and DIPs on a non-school day. The committee further notes that this is an optional, not a mandatory, discipline measure that principals may choose to implement at their school. The committee supports the introduction of this measure, as one option that may assist principals in disciplining poor behaviour at state schools.

The existence of workplace health and safety, public liability and duty of care considerations is a given and the committee understands these would be considered by a principal in determining any such disciplinary measure.

<sup>43</sup> Queensland Law Society, public hearing, 20 September 2013, p11

<sup>44</sup> Submission 2, Dr Judith Howard, p2

<sup>45</sup> Submission 14, University of Queensland, Head of the School of Education, p2

<sup>46</sup> Submission 20, Queensland Advocacy Incorporated, p3

<sup>47</sup> Submission 21, Queensland Teachers' Union, p7

The safety of students while at school is a fundamental responsibility that is shared by the Minister, the department and school principals. The committee does not consider the Bill is required to be amended to further strengthen this requirement. With regard to the provision of appropriate staffing levels during discipline on non-school days, the committee considers this is a decision for the principal.

### Right of review or appeal

Currently, if a student is suspended for five school days or less, the student does not have a right of appeal. The absence of an option to appeal a short suspension is consistent with current legislation, however, the maximum period of short suspension has increased to 10 days. The Bill would maintain the provision for students to be informed of their right to make a submission against the suspension for longer suspensions, of over 10 days duration instead of the current five.

The explanatory notes advise that the only right of review of decisions to suspend a student for 10 days or less will be judicial review:

*It is recognised that the principal's increased powers to impose short term suspensions may mean more students are subjected to suspensions of up to 10 school days without a right of review apart from judicial review.*<sup>48</sup>

At the public briefing the department told the committee that:

*Long suspensions, exclusion decisions and cancellation of enrolment will be reviewable by the director-general. Review by the Queensland Civil and Administrative Tribunal remains available for the most serious disciplinary action, namely exclusion from all state schools.*<sup>49</sup>

The Queensland Secondary Principals Association (QSPA) advised that “[u]nsubstantiated appeals by some parents consume excessive time of Principals and other staff in schools.”<sup>50</sup>

Another category of suspension is students suspended for more than 20 days on a charge-related ground. These students “... must be informed of the right to make a submission against the suspension. This information is required to be included in the notice of suspension given to the student.”<sup>51</sup>

The Queensland Law Society considers that these provisions do not:

*... sufficiently balance the importance of natural justice considerations for the student and their family with the needs of other students and the principal's power to manage the good order of the school. The explanatory notes, when addressing these changes, refer to the reduction of administrative burden on principals. We submit that the administrative burden on the state is a justifiable cost given the substantial impact of the decisions on affected students and their families.*<sup>52</sup>

QLS suggests that alternative ways to reduce the administrative burden be considered.

QAI considers the cost of judicial review will deter parents from appealing suspension decisions:

*At a cost of \$802.00 to register for a judicial review ... not including representation fees or any possible court costs incurred will deter many parents from seeking any appeal of suspension decisions. This lack of recourse to students and their families is an unevenly*

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<sup>48</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p8

<sup>49</sup> Department of Education, Training and Employment, public briefing, 28 August 2013, transcript, p3

<sup>50</sup> Submission 8, Queensland Secondary Principals' Association, p1

<sup>51</sup> Department of Education, Training and Employment, response to submissions, p21

<sup>52</sup> Submission 11, Queensland Law Society, p5

*dealt hand considering the resources available to schools and the Department of Education.*<sup>53</sup>

At the public hearing, QAI told the committee that it considers that judicial review would be an onerous burden on families.<sup>54</sup>

The University of Queensland highlights the importance of natural justice in requiring “... *that students and their families have the right to have their situation considered by an impartial body.*”<sup>55</sup>

In the departmental response to submissions, the department outlined the process principals will be required (by policy and procedure) to take when enacting significant disciplinary decisions, including advising students and their parents how to make a submission against a decision:

*Departmental procedure will require the most significant disciplinary decisions (suspensions, exclusions and cancellations of enrolment) be enacted through the Departmental school and student management system, OneSchool. OneSchool will require that principals comprehensively document the evidence, the material facts and the reasons relied on in making their decision. OneSchool will then generate letters (‘approved form’ required by the Bill) that provide the student and their parents with notice of a disciplinary decision. The letters will also contain information about how to make a submission against a decision. This will ensure that students are informed of the critical issues and have access to review mechanisms.*<sup>56</sup>

#### **Committee comment**

The committee notes that there is no right of review, other than judicial review, for short suspensions even though the period of a short suspension is doubled under the Bill. The absence of a right of review for short suspensions, and the inclusion of a right of review for longer suspensions, is consistent with current legislation.

The committee has recommended that the policy and procedures include actions that students, their families and school communities can take in the event there is concern that a principal is misusing the power granted to them under the Bill. This is considered to be a safeguard, in addition to the safeguards already in place, to ensure that if inappropriate decisions are being made, the school community has an avenue to have their complaint heard.

#### **Behaviour plans**

The requirement for schools to have behaviour plans will no longer be required under the Bill; however, schools will still be expected to have one.

The University of Queensland considers the removal of the requirement from legislation for schools to have behaviour plans is a backwards step:

*The removal of the requirement for schools to address problematic behaviour by developing an approved behaviour plan is a retrograde step as it proposes a shift from (a) collaboratively working with students and their families to develop strategies to assist with cultivating socially acceptable behaviours to (b) a view that students ought to be disciplined without consideration of and intervention in the causes of behaviours that are deemed difficult.*<sup>57</sup>

<sup>53</sup> Submission 22, Youth Advocacy Centre Inc, p3

<sup>54</sup> Queensland Advocacy Incorporated, public hearing, 20 September 2013, p2

<sup>55</sup> Submission 14, University of Queensland, Head of the School of Education, p2

<sup>56</sup> Department of Education, Training and Employment, response to submissions, p16

<sup>57</sup> Submission 14, University of Queensland, Head of the School of Education, p2

A similar view was expressed by QAI, which noted that:

*In terms of removal of behaviour plans, students with disabilities have historically been removed on the basis of their disability by the untethered use of suspension and exclusion, and it is likely that more students with disabilities would be affected by this amendment should it be adopted. Research and practice have provided sound evidence that positive behaviour approaches assist with keeping students in schools and working well within their local communities.<sup>58</sup>*

QPPD also expressed concern at the removal of the legislative requirement for schools to have behaviour plans, noting:

*Students with disability, because of problems they may face in navigating a difficult and sometimes hostile school environment, are at particular risk of exhibiting adaptive behaviours to the environment which school staff will consider challenging. Research has shown (e.g. Graham & Sweller, 2011) that children described as having “challenging behaviour” are at increased risk of segregation. The legal requirement to have behaviour plans in place is an acknowledgment that behaviour does not happen in isolation but is a product of the interaction of many factors including the student, and the physical, social and learning environments. Behaviour plans represent good educative, evidence-based practice as opposed to punitive responses (such as suspension and exclusion) which are not founded on research evidence and which have been found to be ineffective, damaging to students, and counter-productive to good inclusive practice.<sup>59</sup>*

Queensland Teachers’ Union noted that “[t]he discipline audit tool currently being piloted by the department expects clear statements of expectations endorsed by the community akin to behaviour management plan.”<sup>60</sup>

With regard to how the Bill takes into consideration the causes of poor behaviour, such as mental health concerns, neglect, domestic violence and poverty, in the design of the appropriate behaviour management strategies the QSPA noted that it could not and that those issues should be dealt with separately.<sup>61</sup>

P&Cs Queensland recommends that “... schools should be provided support through additional resources such as comprehensive relationship building programs, bullying awareness programs, bullying management plans and additional staffing. P&Cs Qld wishes for a collaborative process with a more empowered principal, to set the school behaviour management policy within the Department’s guidelines. We believe the school governance body plays an important role in setting out the school’s behaviour management plan.”<sup>62</sup>

The University of Queensland recommends that “... further develop provisions for guidance and support to enable students, families and schools to address the causes of inappropriate behaviour through collaborative approaches.”<sup>63</sup>

In the departmental response to submissions, it noted that it expects:

*... state schools to develop a school-wide behaviour plan collaboratively with the school community and review it regularly as outlined in the Statement of expectations for a*

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<sup>58</sup> Queensland Advocacy Incorporated, public hearing, transcript, 20 September 2013, p3

<sup>59</sup> Submission 10, Queensland Parents for People with Disability Inc, pp1-2

<sup>60</sup> Submission 21, Queensland Teachers’ Union, p3

<sup>61</sup> Queensland Secondary Principals’ Association, public hearing, transcript, 20 September 2013, p19

<sup>62</sup> Submission 7, P&Cs Queensland, p1

<sup>63</sup> Submission 14, University of Queensland, School of Education, p2

*disciplined school environment. It is not necessary to continue to include this in legislation as this can be achieved through policy.*<sup>64</sup>

The department also told the committee that “[t]he new strengthening discipline strategies ... do not replace the individualised strategies already utilised by principals and schools to support a range of students with complex needs ... plans may include individualised behaviour management plans, individual education plans and functional behaviour assessments.” Under new policy, principals will be required to make disciplinary decisions only after carefully considering a student’s individual circumstances.<sup>65</sup> In addition, “[p]rincipals will continue to work with their local communities in developing a school-wide behaviour plan outlining the school’s behaviour expectations and determining the disciplinary strategies that will be used.”<sup>66</sup>

### Committee comment

The committee notes that both school wide behaviour plans and individual behaviour management plans will continue to be available to schools. The committee considers that both of these plans play an important role in setting appropriate behaviour expectations and identifying how to manage poor behaviour. The concerns raised by inquiry participants are noted by the committee. The committee considers that the response from the department appropriately addresses the concerns raised.

### Students with disability

Concerns were raised by a number of inquiry participants about the impact of the Bill on students with disability.<sup>67</sup> Also see section ‘behaviour plans’ for additional relevant examination of this issue.

*QPPD considers the changes introduced by the Bill to be “... counter to the philosophy of good inclusive practice (and indeed to positive school reform generally) and place students with disability, in particular, under greater threat of damaging systemic practices including rejection and segregation.”*<sup>68</sup>

The University of Queensland notes that suspension “... is a flawed and fruitless strategy. It has negative outcomes for students and is differentially applied to certain groups, including students with disabilities.”<sup>69</sup>

In the departmental response to submissions it noted the rights of students and prospective students to education:

*The Standards [Disability Standards for Education 2005] give students and prospective students with disability the right to education and training opportunities on the same basis as students without a disability. This includes the right to comparable access, services and facilities, and the right to participate in education and training without discrimination. Education providers have an obligation to make changes to reasonably accommodate the needs of students with disability.*<sup>70</sup>

The department also advised that when principals make disciplinary decisions, they must be satisfied that the school has made reasonable educational adjustments, which include “... the student having access to the curriculum and ensuring that the student understands the expected social and emotional behaviours and the consequences for inappropriate behaviours.”<sup>71</sup>

<sup>64</sup> Department of Education, Training and Employment, response to submissions, p9

<sup>65</sup> Department of Education, Training and Employment, correspondence, p1

<sup>66</sup> Department of Education, Training and Employment, correspondence, 30 September 2013, p3

<sup>67</sup> See for example, Submissions 10, 14 and 20

<sup>68</sup> Submission 10, Queensland Parents for People with a Disability Inc, p1

<sup>69</sup> Submission 14, University of Queensland, School of Education, p4

<sup>70</sup> Department of Education, Training and Employment, response to submissions, p4

<sup>71</sup> Department of Education, Training and Employment, response to submissions, p4

QAI questions whether the ‘reasonable steps’ referred to by the department:

*This has often resulted in parents having to pay for and administer home schooling via the Distance Education program. This can be cost prohibitive for many families, and often imposes yet another onerous task on parents who may have to relinquish employment in order to deliver this program to their sons or daughters with disability. Severing a student from their local community will further isolate that child and their family from the social and moral supports that assist that family to belong to their community.<sup>72</sup>*

Autism Behaviour Intervention Queensland highlights the ineffectiveness of punishment strategies to alter the behaviour of students with autism:

*Many of the symptoms associated with autistic spectrum disorders lead to behavioural difficulties. There is a range of reasons why children with ASD have difficulties with behaviour. Their fundamental difficulties with communication and social interaction are often the root cause of difficult behaviour. I am concerned that suspension and exclusion is used on students with ASD in the absence of positive behavioural support plans developed by qualified mental health clinicians with experience in applied behavioural analysis. Punishment strategies are not effective for altering behaviours in persons with autism. A large body of evidence provides empirical support for the use of positive behavioural supports as the first course of treatment for problem behaviour for children with ASD.<sup>73</sup>*

#### **Committee comment**

The committee notes the concerns raised by some inquiry participants about the impact of the Bill on students with disability. The committee has recommended that the Minister confirm that the policy and procedures will provide for early intervention strategies, positive behaviour management strategies and evidence-based practice. It is considered that these strategies would assist schools in providing appropriate behaviour management support to students with disability.

#### **Community Service Interventions and Discipline Improvement Plans**

The Bill introduces two tools that can be used by principals when disciplining students. They are Community Service Interventions (CSI) and Discipline Improvement Plans (DIP). The Explanatory Notes suggest that these strategies could be used by principals “... to address inappropriate student behaviour prior to resorting to suspension or exclusion.”<sup>74</sup>

*CSIs “... involve students performing work or service in their local community with a host organisation or under the supervision of a school staff member. They are designed to develop discipline by changing attitudes, improving skills, enhancing self-respect and respect for others through commitment and teamwork. Participation is dependent on the cooperation of students and parents.”<sup>75</sup>*

DIPs, also referred to by the government as ‘contracts of student behaviour’<sup>76</sup> are a “... written agreement that can be used at any time to prevent escalation of inappropriate behaviour by setting out strategies/steps for behaviour improvement. For example, a plan might involve commitment to regularly attend school or participate in a social skills initiative or a drug and alcohol education

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<sup>72</sup> Submission 20, Queensland Advocacy Incorporated, p5

<sup>73</sup> Submission 19, Autism Behaviour Intervention Queensland, p1

<sup>74</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p3

<sup>75</sup> Ibid, p3

<sup>76</sup> Minister for Education, Training and Employment, Media release, *Newman Government announces discipline plan for Queensland schools*, 28 April 2013

*program. Discipline Improvement Plans are intended to be a flexible document that is adaptable to local contexts.*<sup>77</sup>

The department told the committee that CSIs and DIPs do not replace “... *the individualised strategies already utilised by principals and schools to support a range of students with complex needs.*”<sup>78</sup>

Both CSIs and DIPs can be implemented on a Saturday under the Bill.

The QLS is concerned that the Bill does not provide guidance on the operation and role of CSI and DIPs. It recommends that parameters for the use of these strategies be implemented within the legislation or policy and procedures.<sup>79</sup>

The QTU considers that student enrolment should be conditional upon compliance with a DIP, and that “... *non-compliance with a Discipline Improvement Plan should be added to the legislative Grounds for suspension (s282); Grounds for exclusion (s292); and (s317) Ground for cancelation.*”<sup>80</sup>

In the departmental response to submissions it referred to detentions, CSI and DIPs as being “... *most likely to be successful as pro-active early intervention strategies.*”<sup>81</sup> It noted that these options may not be appropriate for students with intensive and complex behaviour concerns:

*There is no simple solution to addressing complex and challenging behaviour. Schools need to assess the function of behaviour to understand how best to address the specific behaviours of concern. Using evidence-based approaches will support the student in developing the skills needed to behave appropriately.*<sup>82</sup>

#### **Committee comment**

The committee welcomes the introduction of CSIs and DIPs as two of many strategies available to principals to manage the behaviour of students at their school. CSIs represent an opportunity for formal recognition of the community partnerships schools forge with relevant community based organisations, which may assist students to improve their behaviour and make positive change in their lives.

#### **Alternative education options**

The Bill requires principals to take reasonable steps to arrange access to an educational program while a student is suspended.<sup>83</sup> With regard to exclusion, the principal is only required to take reasonable steps to arrange access to an alternative educational program if the student has been excluded from all state schools.<sup>84</sup>

In the Minister’s media release that accompanied the introduction of the Bill, changes introduced by the Bill were noted to include “... *an enhanced commitment to alternative learning centres, for cases where it was not in the best interest of the wider school community for a student to return to school.*”<sup>85</sup>

<sup>77</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p3

<sup>78</sup> Department of Education, Training and Employment, correspondence, 30 September 2013, p1

<sup>79</sup> Submission 11, Queensland Law Society, p3

<sup>80</sup> Submission 21, Queensland Teachers’ Union, p6

<sup>81</sup> Department of Education, Training and Employment, response to submissions, p3

<sup>82</sup> Ibid, p3

<sup>83</sup> Education (Strengthening Discipline in State Schools) Amendment Bill 2013, clause 284

<sup>84</sup> Ibid, clause 304

<sup>85</sup> Minister for Education, Training and Employment, media release, *Red tape cuts to allow principals to get tough*, 20 August 2013

In an earlier Ministerial media release, the plan to expand “... *the number of alternative learning centres for students with complex behaviour needs ...*” was highlighted.<sup>86</sup>

The department’s goal to provide alternative environments for students with chronic behaviour concerns are included in the action plan Great teachers = Great results.<sup>87</sup> The action plan notes that “*Alternative school environments will be used for students with chronic behaviour concerns*” from 2014.<sup>88</sup>

In the departmental response to submissions, it was advised that:

*Students who are excluded will continue to be managed by Regional Case Managers who support the student to engage in another education or training program or employment. The regional case managers follow up with students after one month and six months to review to ensure their continued engagement.*<sup>89</sup>

Some inquiry participants expressed concern that there is limited access to alternative education centres in regional and remote areas.<sup>90</sup> The department acknowledged that it is not possible to have alternative education programs in all remote areas, however:

*... it is planned to look at how support could be provided to assist schools in remote areas to manage students with complex and challenging behaviour. Examples that could be explored include: professional development in functional behaviour assessment; programs delivered through distance education in alternative settings etc.*<sup>91</sup>

The University of Queensland considers that “[i]f suspension is included as a strategy in the legislation then the provision of an educational program must be compulsory.”<sup>92</sup> The University considers that:

*This proposed change reflects the primacy afforded to exclusion in this Amendment Bill. The capacity of educational programs provided by government programs and non-government organisations that enable disengaged students to continue their education after being excluded from state schools reflects poorly on the capacity of schools to provide inclusive educational opportunities for all students. If ‘reasonable steps’ are not sufficient to ensure the student’s access to education then the outcome of this policy is exclusion from education with potential effects on the student’s educational and employment opportunities in the future.*<sup>93</sup>

The Minister plans to “... *expand our relationships with Special Assistance Schools that are keen to build their role in meeting the needs of particular students across Queensland.*”<sup>94</sup> This was also noted by the department in the response to submissions, which stated “[t]he Department is working towards developing more alternative placements at Special Assistance Schools for students with ongoing complex and challenging behaviour.”<sup>95</sup>

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<sup>86</sup> Minister for Education, Training and Employment, media release, *Newman Government announces discipline plan for Queensland schools*, 28 April 2013, p1

<sup>87</sup> Department of Education, Training and Employment, response to submissions, p6

<sup>88</sup> Queensland Government, *Great teachers = Great results* action plan, p12

<sup>89</sup> Department of Education, Training and Employment, response to submissions, pp13-14

<sup>90</sup> See for example, Submission 2 and 4

<sup>91</sup> Department of Education, Training and Employment, response to submissions, p1

<sup>92</sup> Submission 14, University of Queensland, School of Education, p4

<sup>93</sup> *Ibid*, p4

<sup>94</sup> Minister for Education, Training and Employment, media release, *Newman Government announces discipline plan for Queensland schools*, 28 April 2013, p1

<sup>95</sup> Department of Education, Training and Employment, response to submissions, p1

**Committee comment**

Given the issues raised by some inquiry participants regarding access to alternative education centres in regional and remote areas, the Minister's commitment to expand the number of alternative learning centres is welcomed by the committee. Although it is preferable for students to be integrated into mainstream school options where possible, the committee appreciates the need for these education options. The committee seeks the Minister's advice on how many students currently access this type of education.

**Recommendation 6**

The committee recommends that the Minister for Education, Training and Employment identifies in a quarterly data publication, in respect of suspensions and exclusions (see recommendation 7), the number of excluded students who receive education through alternative education centres.

**Early intervention and evidence based approaches**

The Explanatory Notes state that “[t]he absence of early intervention strategies in the current legislative framework has led to a strong reliance on suspension and exclusion options.”<sup>96</sup> The Bill aims to introduce “... more flexible early intervention approaches to addressing student misbehaviour ... to reduce the number of students suspended or excluded from state schools.”<sup>97</sup>

The impact of suspension and exclusion on students' education are observed in the explanatory notes:

*Suspensions and exclusion interrupt a student's education and can cause students to fall behind their peers academically. Consequences of a disrupted education include an increased likelihood to engage in antisocial behaviour and eventual school dropout.*<sup>98</sup>

Mr Bob Cole, a primary school principal, is concerned that “... the Bill will be dealing only with what happens after students have grossly breaches school discipline boundaries. Much more important, in my view is, the set of tools/resources available to schools to prevent such breaches from occurring in the first place.”<sup>99</sup>

The submission from the University of Queensland considers there is no evidence to support the approach taken by the Bill.<sup>100</sup> The requirement for schools to have school-wide behaviour plans may have been seen to be an evidence based early intervention strategy, however, this will no longer be required by legislation. It will continue to be required by the department's policy and procedures, which the Bill requires schools to comply with.

Ms Sue Attrill, a behaviour support worker considers that the Bill should be “... accompanied by evidence based supports for schools that are proven to lower Student Disciplinary Absences.”<sup>101</sup>

QPPD considers the approach adopted by the Bill as a ‘popular response’:

*... but it does not appear to be based on any solid evidence. I think the more positive strategies in terms of the behaviour support plans and partnerships with families—even though, yes, they take meeting time—have the evidence behind them.*<sup>102</sup>

<sup>96</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p2

<sup>97</sup> Ibid, p3

<sup>98</sup> Ibid, p3

<sup>99</sup> Mr Bob Cole, Gympie West State School, Submission 3, p1

<sup>100</sup> Submission 14, University of Queensland, School of Education, p1

<sup>101</sup> Ms Sue Attrill, Submission 6, p1

<sup>102</sup> Queensland Parents for People with Disability Inc, public hearing, transcript, 20 September 2013, p22-23

At the public hearing, the University of Queensland questioned the effectiveness of suspension and exclusion as a discipline strategy:

*... why there is such a large number of suspensions and exclusions within Queensland schools and what is the efficacy and effectiveness of these exclusions? It was surprising to see the large number of suspensions and exclusions that was referred to in the documentation.*<sup>103</sup>

University of Queensland highlights the “... limitations of strengthening school discipline policy as an isolated response to disengagement and disruptive behaviour and advocates for a more balanced approach to enabling the inclusion and engagement of all students in Queensland State Schools.”<sup>104</sup>

At the public hearing, QAI told the committee that “[r]esearch and practice have provided sound evidence that positive behaviour approaches assist with keeping students in schools and working well within their local communities.”<sup>105</sup>

Representatives from the University of Queensland identified that disruptive behaviour is not increasing, and that overall, research shows it is in decline:

*... the amount of disruption and time out from classroom engagement is not increasing; it is not more disruptive. In fact, across the OECD countries, research is showing that the amount of disruption within schools is actually declining. I think there is a perception amongst the public that there is a large increase in disruptive behaviour within schooling, but if you look across the international evidence—and I am referring to the TALIS, the Teaching and Learning International Survey data—the amount of disruption is actually declining.*<sup>106</sup>

The University of Queensland, along with a number of other submitters<sup>107</sup>, also acknowledged the reasons for poor behaviour and appropriate responses to this problem:

*Disruptive student behaviour in schools is often caused by disengagement from schooling and/or difficult circumstances in students’ out-of-school lives. The most appropriate response to disruptive student behaviour is to address the cause of the problem and to enable students to engage with schooling and attain positive educational outcomes.*<sup>108</sup>

Mr Jack Dacey, a behaviour management teacher, also acknowledges the impact of a student’s home environment on their behaviour and the importance in using a variety of tools to improving their behaviour.<sup>109</sup>

When questioned at the public hearing about how the Bill takes into consideration the causes of poor behaviour, the QSPA noted that it does not.<sup>110</sup>

An evidence based approach to reduce disruption was identified by the University of Queensland as building the capacity of teachers:

*Building teachers’ capacities to engage students and manage classrooms, rather than reforming system and school level discipline policies, is an evidence-based approach to reducing disruption and increasing classroom time dedicated to learning, while also improving the capacity of the teacher workforce. This is an approach to reducing*

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<sup>103</sup> University of Queensland, School of Education, public hearing, transcript, 20 September 2013, p5

<sup>104</sup> Submission 14, University of Queensland, School of Education, p1

<sup>105</sup> Queensland Advocacy Incorporated, public hearing, transcript, 20 September 2013, p3

<sup>106</sup> University of Queensland, School of Education, public hearing, transcript, 20 September 2013, p4

<sup>107</sup> See for example, Submissions 1, 2, 3, 4, 5 and 14

<sup>108</sup> Submission 14, University of Queensland, School of Education, p1

<sup>109</sup> Submission 5, Mr Jack Dacey, pp1-2

<sup>110</sup> Queensland Secondary Principals’ Association, public hearing, transcript, 20 September 2013, p19

*disruptive behaviour through investment in people rather than the exclusion of young people from educational opportunities.*<sup>111</sup>

At the public hearing, the QTU described an effective evidence based behaviour management program implemented by the department about five years ago titled Essential Skills for Classroom Management:

*... that was underpinned by research done by Christine Richmond, Teach More, Manage Less ... it is about maximising quality curriculum instruction and minimising the amount of time spent dealing with behaviour incidents. The data that was captured during the roll-out of that program suggested that, for the vast majority of students, with some support from their teacher using the Essential Skills for Classroom Management—in Essential Skills for Classroom Management there are 10 skills—by implementing those 10 skills you are able to manage a class really effectively.*<sup>112</sup>

Evolve – Keeping Kids on Track is a not for profit youth mental health service, that acknowledges the impact of a child’s upbringing and the stage of physiological development of their brain on the child’s behaviour. It highlights the importance of schools becoming ‘trauma informed’ and recommends:

*... that every school become a trauma informed service as described in the excellent "Practice Guidelines for Treatment of Complex Trauma and Trauma Informed Care and Service Delivery". This document is not aimed at mental health services alone and schools would benefit greatly from the internal process of becoming trauma informed. Teachers would be equipped with a greater ability to keep students calm, non-teaching staff would be able to contribute to the creation of de-escalation and all students would be safer and less distracted from their work. School reviews and teacher professional development budgets should account for the costs associated.*<sup>113</sup>

In the departmental response to submissions, the importance of evidence based approaches to behaviour management was acknowledged:

*The Department recognises the complex needs and the need for individualised and evidence-based approaches to these needs. This is reflected in the Statement of Expectations for a Disciplined School Environment ... The Department agrees that responses to student behaviour are most effective when they are preventative rather than punishing. Innovative and preventative measures to respond to student behaviour are reflected in a wide range of departmental policies, procedures and resources.*<sup>114</sup>

The department advised that “[o]ngoing support will be provided to support schools to use evidence-based approaches. For example, schools are encouraged to use a whole school approach such as Schoolwide Positive Behaviour Support as a framework for developing a safe supportive and disciplined school environment.”<sup>115</sup>

#### **Committee comment**

The committee supports the implementation of early intervention options and positive behaviour management strategies as a way to encourage good behaviour and prevent issues from escalating. However, there is a strong need for discipline at the other end of the spectrum, such as suspension and exclusions, when early intervention options have not succeeded.

Due to the important role these behaviour management strategies play, and the concerns raised by inquiry participants, the committee has recommended that the Minister confirms that the policy and

<sup>111</sup> Submission 14, University of Queensland, School of Education, p1

<sup>112</sup> Queensland Teachers’ Union, public hearing, transcript, 20 September 2013, p15

<sup>113</sup> Submission 12, Evolve – Keeping Kids on Track, p2

<sup>114</sup> Department of Education, Training and Employment, response to submissions, p6

<sup>115</sup> Ibid, p5

procedures will provide for early intervention strategies, positive behaviour management strategies and evidence based practice.

### Suspension and exclusion data

The Bill aims to reduce the number of suspensions and exclusions through introducing alternative and flexible options to manage school discipline:

*The Bill inserts a general power into the EGPA that ensures state school principals have responsibility and power to control and regulate student discipline at their school. This enables principals to expand disciplinary interventions, and permits disciplinary measures to occur outside of school hours. This in turn provides principals with alternative and flexible disciplinary responses that may reduce reliance on suspension and exclusion processes. These can provide more meaningful consequences for student misbehaviour and act as real drivers for behavioural change.*<sup>116</sup>

The Minister noted that he is “... expecting that the flexibility in options will actually see a reduction in exclusions because principals will have more scope for finding alternatives appropriate to the individual situation.”<sup>117</sup>

At the public briefing, the department advised that there were 64,324 student disciplinary absences in 2012. The majority (54,524) were short suspensions of between one and five days, with the remainder made up of long suspensions of between six and 20 days (7,220), exclusions (1,331) and cancellations of enrolment (1,249).<sup>118</sup> In response to a request for additional information from the committee, the department advised that it “... regularly publishes data related to the number of suspensions, exclusions and cancellations of enrolment and plans to continue to do so.”<sup>119</sup>

QPPD noted that:

*“... research conducted over many decades in school systems around the world indicate that disciplinary practices which result in the removal of students from school are disproportionately experienced by students who are in one or more of the following groups:*

- *Male*
- *Racial minority or non-dominant culture*
- *Disabled*
- *Low income; and*
- *State care (foster, group homes, juvenile centres).*<sup>120</sup>

The University of Queensland advised that the groups that are most likely to be the subject of exclusion, are the same students “... most in need of consistent engagement with good quality teaching.”<sup>121</sup> The impact of exclusion on these students was also acknowledged:

*The negative outcomes of exclusion are not restricted to the individuals who are suspended, or even to their family. The community at large is also likely to experience negative consequences in the future as students who are suspended are more likely to drop out of school leading to reduced employment options, and are more likely to*

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<sup>116</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p6

<sup>117</sup> Minister for Education, Training and Employment, media release, *Red tape cuts to allow principals to get tough*, 20 August 2013

<sup>118</sup> Department of Education, Training and Employment, public briefing, 28 August 2013, p3

<sup>119</sup> Department of Education, Training and Employment, correspondence, 30 September 2013, p2

<sup>120</sup> Submission 10, Queensland Parents for People with a Disability Inc, p1

<sup>121</sup> Submission 14, University of Queensland, School of Education, p4

*engage in drug taking and in antisocial behaviours – all with costs to the broad community.*<sup>122</sup>

The Commissioner for Children and Young People and Child Guardian recommends that data on suspension and exclusion identify the number of children in the child protection system be collected and reported on regularly.<sup>123</sup>

A similar recommendation was suggested by QPPD, which requested that:

*... if these proposed changes to the legislation are made that Education Queensland publish summary data on the characteristics of students who are subjected to suspension and exclusion each year, e.g. gender, age, ethnicity and ability/disability.*<sup>124</sup>

In the departmental response to submissions, the department advised that increased functionality of the OneSchool Information System has recently allowed for the identification of students in the child protection system. In addition, “[T]he Department is working with the Department of Communities, Child Safety and Disability Services to improve the quality and timeliness of the information recorded.”<sup>125</sup>

### Committee comment

The committee acknowledges the disproportionate number of students from certain minority groups that are suspended and excluded. The committee also acknowledges that an aim of the Bill is to reduce the number of suspensions and exclusions.

In order to assess whether the Bill is achieving its intended aim, and whether these groups of students are being adversely affected by the changes implemented by the Bill, the committee recommends that suspension and exclusion data be published every quarter by gender, Indigenous status, racial minority, children and young people with a disability and children and young people in the child protection system

### Recommendation 7

The committee recommends that the Minister for Education, Training and Employment publishes suspension and exclusion data every quarter by gender, Indigenous status, racial minority, children and young people with a disability and children and young people in the child protection system.

### Policy and procedures

The Bill introduces new provisions that allow the chief executive to make policy or procedure about how principals control and regulate school discipline. Policy and procedures can provide for any matter the chief executive considers appropriate, including detention, CSIs and DIPs. Principals are required by the Bill to comply with the policy and procedure.<sup>126</sup>

The Explanatory Notes explain that policy and procedures will:

*... provide guidance about how principals should control and regulate discipline. The policy and procedures will not be used to force particular disciplinary action on principals. Rather, they will guide principals to adopt appropriate processes that ensure*

<sup>122</sup> Ibid, p4

<sup>123</sup> Submission 1, Commission for Children and Young People and Child Guardian, p1

<sup>124</sup> Submission 10, Queensland Parents for People with a Disability Inc, p2

<sup>125</sup> Department of Education, Training and Employment, response to submissions, p1

<sup>126</sup> Education (Strengthening Discipline in State Schools) Amendment Bill, 2013, clause 276

*adherence to natural justice principles and protect the safety and wellbeing of students and staff.*<sup>127</sup>

QSPA has assisted in both the development of the Bill and in development of the policy and procedures:

*The Department has valued the input of QSPA in the development of the Bill and accompanying departmental procedure and will continue to work with the QSPA in implementing the reforms.*<sup>128</sup>

At the public hearing, the department advised what type of information would be included in the policy and procedures:

*The policy documents contain information on each of the different types of school disciplinary absences. So around suspension it has a procedure that principals will follow when carrying out an exclusion or a suspension. On that there are detailed steps to ensure that natural justice is at the forefront. We have used the Queensland Ombudsman's guide to good decision making as the basis for that. So it would take a principal through the steps of how they gather information about what happened, how they would make the decision, what materials they use, what facts they find from that material, and then it guides them through giving the reasons for that decision. Linked to that is the OneSchool management system, which is the school and student management system. That will have particular rules in it so that principals must adhere both to the legislation and to the policy and procedures.*<sup>129</sup>

The departmental response to submissions identified additional information that will be included in the policy and procedures, for example guidance to ensure natural justice principles are used in decision making about student discipline<sup>130</sup>, that disciplinary decisions only be made after students' individual circumstances are considered and<sup>131</sup> responsibilities of principals with regard to detentions.<sup>132</sup>

The Bill requires that the policy and procedures be placed on the department's website and be made available at the department's head office.<sup>133</sup>

The University of Queensland considers that the "... unilateral form of these disciplinary policies and procedures would send a message to students that their views are not valued. The proposed procedures are more akin to criminal codes than policies designed to increase engagement in learning."<sup>134</sup>

#### **Committee comment**

The committee notes the policy and procedures documents that are being developed, and the information that will be moved from legislation to the executive arm of government. The committee has not seen these documents which has presented challenges in determining whether it is appropriate to remove certain information from legislation and whether issues raised are being adequately addressed in policy and procedures.

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<sup>127</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p3

<sup>128</sup> Department of Education, Training and Employment, response to submissions, p8

<sup>129</sup> Department of Education, Training and Employment, public briefing, 28 August 2013, p4

<sup>130</sup> Department of Education, Training and Employment, response to submissions, p1

<sup>131</sup> Ibid, p9

<sup>132</sup> Ibid, p10

<sup>133</sup> Education (Strengthening Discipline in State Schools) Amendment Bill 2013, clause 276(3)

<sup>134</sup> Submission 14, University of Queensland, School of Education, p3

To ensure key stakeholders are aware of important changes to these documents, the committee recommends that the department actively communicates changes to policy and procedures documentation through email notification and newsletters.

### Recommendation 8

The committee recommends that the Department for Education, Training and Employment actively communicates changes to policy and procedures documentation through email notification and newsletters.

### Red tape reduction

A reduction in the administrative burden and red tape associated with responding to misbehaviour of students is an objective of the Bill.<sup>135</sup> In a Ministerial media release it was noted that the Bill has been introduced to “... cut red tape and give principals stronger disciplinary powers in Queensland schools.”<sup>136</sup>

When the Bill was introduced into the Parliament, the Minister advised that the Bill reduces the amount of regulatory detail contained in current legislation:

*The feedback from the principals was that the legislative framework is overly prescriptive, providing little flexibility in how decisions are made and how families are involved. The red tape connected with the making of discipline decisions often delays interventions intended to address underlying problem behaviours and consumes the valuable time of principals.*<sup>137</sup>

At the public briefing the department explained that current red tape “... places undue administrative burden on principals and consumes their valuable time. It can also add to unnecessary delay in decision making.”<sup>138</sup> To reduce the administrative burden, the Bill:

*... simplifies and streamlines the suspension, exclusion and cancellation of enrolment processes and provides flexibility for principals to adopt processes that meet the need and reasonable expectation of school communities. An example of streamlining is that exclusion decisions will no longer involve the principal supervisor.*<sup>139</sup>

The Queensland Teachers’ Union (QTU) supports the “... apparent reduction of red tape within the Bill.”<sup>140</sup>

QPPD highlighted the vulnerability of students who struggle in the school system and stated that they deserve a “... safe, welcoming and meaningful ...” environment:

*It is a matter of shame that the leaders of our education system regard decreasing “red-tape” in the disciplinary process, so as to ease the administrative burden on principals, as a higher priority than the needs of our most at-risk students. Surely it is the purpose of schools (and the role of principals) to ensure the welfare and positive learning experiences of students. Everyone will benefit when our school communities develop the*

<sup>135</sup> Explanatory Notes, Education (Strengthening Discipline in State Schools) Amendment Bill 2013, p1

<sup>136</sup> Minister for Education, Training and Employment, media release, *Red tape cuts to allow principals to get tough*, 28 August 2013, p1

<sup>137</sup> Minister for Education, Training and Employment, Hansard, 20 August 2013, pp2599-2600

<sup>138</sup> Department of Education, Training and Employment, public briefing, transcript, 28 August 2013, p2

<sup>139</sup> Ibid, p3

<sup>140</sup> Submission 21, Queensland Teachers’ Union, p3

*skills to include all children. We urge you to focus on sound, evidence-based, positive educational practice rather than on responses that are founded on easing “red tape”.*<sup>141</sup>

QAI also expressed concern at the focus on reducing red tape with regard to school discipline:

*Perhaps there is a lack of understanding of the seriousness and cumulative effect that suspension can have on a student’s reputation and of the risk it poses to escalated levels of exclusion. To treat suspension as an overly laden, time-consuming administrative burden is to demean the nature of such a measure. If principals are given opportunities to rush this through and treat it as less serious, then perhaps it would be viewed as a trivial matter by the student and his or her family.*<sup>142</sup>

YAC considers that “[o]ne person’s “red tape”, however, is another person’s safeguard of their rights or assurance of due process.”<sup>143</sup>

#### **Committee comment**

The committee is satisfied that the Bill removes unnecessary red tape, and that this is not at the expense of good disciplinary policy. This will streamline many aspects of school discipline and improve the flexibility afforded to school principals.

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<sup>141</sup> Submission 10, Queensland Parents for People with a Disability Inc, p2

<sup>142</sup> Queensland Advocacy Incorporated, public hearing, transcript, 20 September 2013, p1

<sup>143</sup> Submission 22, Youth Advocacy Centre Inc, p6

### 3. Fundamental legislative principles

As well as considering the policy to be given effect by the legislation, portfolio committees are required to review Bills in respect of their lawfulness, and advise the Legislative Assembly on whether fundamental legislative principles have been given appropriate regard.

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee has examined the application of fundamental legislative principles to the Bill and identified the following issues.

#### 3.1 Rights and liberties of individuals

*Does the bill have sufficient regard to the rights and liberties of individuals?*<sup>144</sup>  
*Is the bill consistent with principles of natural justice?*<sup>145</sup>

##### Detention

The omission of section 283 from the Act potentially broadens the disciplinary scope under which a child may receive detention by removing the current statutory time limits for detention set under s283 and allowing the chief executive to make a policy or procedure about detention under s276(2)(a). The interaction of proposed new sections 275 and 276 appears to allow the ‘detention’ policy or procedure made under s.276(2)(a) to provide for students to be detained after school hours or on a day other than a school day.

Providing for detention on a non-school day (such as a weekend, school holiday or public holiday) or after school for an (as yet) unspecified period could be seen as a significant impost on the rights and liberties of both the detained student and their primary caregiver who may have to reschedule their personal time and planned activities to facilitate the child’s attendance at the detention. This is especially an issue in areas with limited off-peak public transport options. Where a parent or guardian is unable to take the child to and from the detention, there may also be personal safety concerns if a child has to make their way, possibly alone, to and from school on a non-school day or outside of regular school times due to limited transport options, longer waiting times between transport options, fewer parents and teachers in the vicinity of the school etc.

The Bill is also silent on the consequences for a child that is unable to attend after hours or non-school-day detention for any of the above (or other legitimate) reasons.

##### Suspension on a charge-related ground and presumption of innocence

Clause 12 contains, inter alia, proposed new section 282 which will provide grounds for suspension of a student. Amongst those is section 282(1)(f) which makes it a ground for suspension if the student is charged with a serious offence<sup>146</sup> and section 282(2) which makes it a ground for suspension if the student is charged with an offence other than a serious offence and the principal is reasonably satisfied it would not be in the best interests of other students or of staff for the student to attend the school while the charge is pending.

<sup>144</sup> *Legislative Standards Act 1992*, S4 (2) (a)

<sup>145</sup> *Ibid*, S4 (3) (b)

<sup>146</sup> As defined under the *Commission for Children and Young People and Child Guardian Act 2000* (EN p7)

Using ‘charge-related grounds’, rather than a conviction for an offence, as the basis for a punitive disciplinary action like suspension may have insufficient regard to the right of an individual to the presumption of innocence.

There is also potential for the suspension to breach an accused child’s bail conditions if the child was granted bail on the condition that they regularly attend school pending the hearing of their charge.

The explanatory notes assert that in the exercise of this power there are the following safeguards contained in the Bill regarding suspension on charge-related grounds:

- There is a discretion whether or not the principal exercises the power to suspend,
- A suspension on a charge-related ground may also cease prior to being dealt with if a notice ceasing suspension is given under new section 289 or the student is otherwise excluded or enrolment [is] cancelled,
- New section 283 mandates that a decision be made about whether to exclude a student as soon as practicable after a charge is dealt with<sup>147</sup>, and
- There is a right of review to the chief executive against the suspension.

### **Conduct occurring outside school premises or outside school hours**

Clause 12 provide that for the purposes of two of the grounds for suspension and exclusion, being conduct that adversely affects or is likely to adversely affect other students, or conduct that adversely affects or is likely to adversely affect the good order and management of the school, the conduct of the student may be a ground for suspension or exclusion under the relevant provisions even if the conduct does not happen on school premises or during school hours.

This appears to significantly broaden the ‘disciplinary reach’ of a school’s administration in that a student can be sanctioned or punished by suspension or exclusion for conduct that may have no connection to the school except for the alleged perpetrator being a student of that school. The child may end up being effectively punished twice for the same conduct if the conduct attracts criminal sanctions from the courts and disciplinary sanctions such as suspension or exclusion from the school system.

### **Notification requirements**

Clause 12 applies when the chief executive proposes to exclude a student. Section 300 will require the chief executive to give the student a notice in ‘*the approved form*’ about the proposed exclusion and, where the student is already suspended or excluded, tell the student that the suspension or exclusion continues until the chief executive makes a final decision about the proposed exclusion, or if the student is not already suspended or excluded, suspend the student pending the making of a final decision about the proposed exclusion. The suspension starts when the chief executive tells the student about it (s300(3)).

One of the key tenets of natural justice is that a person should be informed of any allegations against them that may make them liable to punitive or disciplinary action or sanction.

It may be that a regulation will specify what the ‘notice in the approved form’ should contain, however that is not clear from the wording as proposed.

The notice in the approved form that has to be given to the student should contain information about the alleged conduct that forms the basis for the disciplinary action, the particular ground for exclusion that the alleged behavior constitutes under s299, the fact that the chief executive is proposing to exclude the student on the basis of that ground, what the exclusion means for the student’s enrolment and attendance at their school and/or other State schools, and what exclusion period is proposed (ie. permanent exclusion or a period up to 12 months, see section 302(3)).

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<sup>147</sup> ‘Dealt with’ means the charges are withdrawn or there is a verdict

The explanatory notes also concede that the Bill removes some existing statutory natural justice requirements such as the:

- Requirements for the principal to meet with parents before making a suspension decision,
- Capacity for an affected student to make a written submission against a proposed exclusion decision, and
- Show cause process prior to cancellation of enrolment of a student who is above compulsory school age.

### 3.2 Clear and precise drafting

*Is the bill unambiguous and drafted in a sufficiently clear and precise way?*

Clause 12 inserts, inter alia, proposed new sections 282(2)(b), 289(1), 292(2)(b) and 299(2)(b) all of which adopt the phrasing *if the principal is reasonably satisfied it would not be in the best interests of other students or of staff for the student to* [attend the school while a charge is pending/be enrolled at the school when they have been convicted of an offence/be enrolled at (any/all) schools].

It is unclear what might constitute ‘not in the best interests of other students or of staff’, however there is a requirement that the principal be reasonably satisfied in coming to that conclusion/decision, and it may well be that the provisions need to be deliberately vague to accommodate the range of circumstances and situations where a principal might reasonably come to the conclusion that it would not be in the best interests of other students or of staff for a student to continue their relationship with a school at a particular time or indefinitely.

#### **Committee comment**

The committee notes the Bill may infringe upon the rights and liberties of students and families who are the subject of disciplinary action such as suspension and exclusion.

The Bill affords increased responsibility to state school principals as a way to increase their authority within the school community, and hopefully improve the behaviour of students. Principals will have primary responsibility to ensure discipline is implemented justly and consistently, and that it balances both the needs of the student being disciplined with the needs of the rest of the school community. This is a great responsibility, for which the committee considers there are appropriate safeguards.

Given the increased power to principals, and the inherent power imbalance with students, the committee considers any principal found to be inappropriately using their power should be swiftly dealt with by the Chief Executive.

With appropriate guidance in policy and procedures – with which the Bill requires principals to comply – the committee is satisfied that the potential breaches of fundamental legislative principles are justified when balancing the rights and needs of the school community with the small number of students that require the type of discipline provided for in the Bill.

## Appendix A – List of submissions

Sub #	Submitter
1	Commission for Children and Young People and Child Guardian
2	Dr Judith Howard
3	Gympie West State School
4	Name withheld
5	Mr Jack Dacey
6	Ms Sue Attrill
7	P&Cs Qld
8	Queensland Secondary Principals' Association (QSPA)
9	Mr Jack Dacey
10	Queensland Parents for People with a Disability Inc (QPPD)
11	Queensland Law Society (QLS)
12	Evolve – Keeping Kids on Track
13	Name withheld
14	The University of Queensland, School of Education
15	Brisbane Youth Education and Training Centre (BYETC) Parents and Citizens Association
16	Mr Jack Dacey
17	Queensland Teachers' Union (QTU)
18	Mr Brian Cresswell
19	Autism Behavioural Intervention Queensland (ABIQ)
20	Queensland Advocacy Incorporated (QAI)
21	Queensland Teachers' Union
22	Youth Advocacy Centre Inc (YAC)

## Appendix B – Witnesses at public hearing – 20 September 2013

Witnesses
<p><b>Brisbane Youth Education and Training Centre</b></p> <p>Mr Michael Hobbs, Principal</p>
<p><b>Brisbane Youth Education and Training Centre Parents and Citizens Association</b></p> <p>Ms Emma Skelton, President</p> <p>Ms Angela Crossland, Vice President</p>
<p><b>Private capacity</b></p> <p>Mr Jack Dacey</p>
<p><b>Queensland Advocacy Incorporated</b></p> <p>Ms Michelle O’Flynn, Acting Director</p>
<p><b>Queensland Law Society</b></p> <p>Mr Damian Bartholomew, Member of the Queensland Law Society Children’s Law Committee</p> <p>Ms Raylene D’Cruz, Policy Solicitor</p> <p>Ms Jennifer Roan, Graduate Policy Solicitor.</p>
<p><b>Queensland Parents for People with a Disability Inc</b></p> <p>Dr Lisa Bridle</p>
<p><b>Queensland Secondary Principals’ Association</b></p> <p>Mr Jeff Major, Principal Vice President</p> <p>Ms Julie Tabor, Vice president</p>
<p><b>Queensland Teachers’ Union</b></p> <p>Ms Kate Ruttiman, Deputy General Secretary</p> <p>Mr Craig Wood, Research Officer</p>
<p><b>University of Queensland, School of Education</b></p> <p>Professor Peter Renshaw, Head of Department</p> <p>Dr Louise Phillips, Lecturer</p>