



Independent  
Education Union  
South Australia

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## Submission to the Legislative Review Committee regarding the proposed amendments to the Teachers Registration and Standards Act 2004

### Introduction

The IEU is the industrial and professional voice of teachers in Catholic, Lutheran and Independent schools in SA as well as teachers in Long Day Care and Early Childhood settings.

The purpose of the *Teachers Registration and Standards Act 2004* is 'to regulate the teaching profession'.

The Act has served the profession well since its inception in 2004 with subsequent amendments and continues to do so.

We intend to comment on a number of the proposed changes but focus on three particular changes that we strongly believe will render the Board incapable of fulfilling the objects of the Act, and, to which we are strenuously opposed:

- The potential for there to be no practising teachers on the Board.
- The proposed method of selection of members of the Board will ensure that the legitimate interests and knowledge of the relevant stakeholders will not be guaranteed.
- The reduction of the size of the Board to half of its current number will mean the pool of available members and their expertise will render the current Board processes unworkable.

We see no benefit to the operation of the Board and the execution of its functions with the significant changes that are being proposed. In fact more than that, we see there are significant problems for the Board itself and the profession, if these changes were to be legislated. It is seen to be change for the sake of change and as such, a retrograde step.

## 9 Membership of the Board

The Teachers Registration Board in its current form has ensured that there is a balance between members of the Board who are practising teachers and those who represent other relevant stakeholders in education and the law. The current number of Board members and deputy members manage the workload of the Board including its committees and panels. The Board is totally self-funded through the collection of registration fees. In short it is efficiently and appropriately functioning for its intended purpose at no cost to the public purse.

Specifically, we refer to the proposal to effectively halve the number of members on the Board and remove the mandate for the requirement of practising teachers to be part of it. This will fundamentally impact on the Board's ability to fulfil its principal functions: initial teacher education accreditation, admissions to the register and disciplinary hearings. The current number of members and deputies are fully engaged in these functions so to reduce the number of members by up to a half is nonsensical. For example the Admissions Committee which comprises at least four Board members deals with between twenty to forty applications each month and subsequent appeals. A reduction in the number of Board members would make this unworkable.

In particular, practising teacher members who are engaged with AITSL in the accreditation of Initial Teacher Education Courses, are trained by AITSL in two stages, Level 1 and Level 2 to sit on panels for initial accreditation of courses and renewal of accreditation. This involves a significant cost to the board as well as time from the member. When panels are convened it is a requirement that one member is always from another state. If the current proposal to fundamentally change the composition of the Board is accepted this is likely to leave South Australia unable to fulfil this function. The potential loss of Deans of Education from the Universities is also likely to result in a major knowledge deficit for this aspect of the Board's work.

Since the current Act has been in operation, South Australia has been singled out by other jurisdictions who were looking at ways to establish or improve their own authorities as a model of best practice. This would also strongly suggest that there is no practical reason for the proposed reduction. Most of the other registration authorities in the States and Territories have similar numbers of members to the South Australian Board. To suggest that a corporate '*trend*' for smaller boards should be a reason to reduce the numbers is not a valid one. The Board's role is not a corporate one and its functions are quasi-judicial, specific to the regulation of the profession, not the strategic management of a business entity.

The other significant proposed change is to the composition and balance of skills of the members of the Board. As previously stated its functions are the accreditation of tertiary courses for entry to the teaching profession, assessment of qualifications and proficiency for practice as a teacher both provisionally and fully, and disciplinary functions to ensure that those who are qualified to teach are also fit and proper persons to do so.

It is appropriate that a mandated proportion of those who fulfil these functions are practising teachers. The current Act ensures that half of the Board members are. The proposed changes provide no guarantee that this would be the case.

The removal of the ability of the principal stakeholders in education to nominate members is something that we strenuously oppose. The bodies listed in Part 3, 9 Membership of the Teachers Registration Board, in the current Act all have a critical role to play in the sector. To deny them the opportunity to nominate members who are part of their organisation or system who will be known to have the knowledge and the appropriate skills to contribute to the Board is a retrograde step. It has the potential to not only see a diminished Board in terms of numbers, but of relevant, current knowledge of the sector. The IEU and the AEU have always nominated members who have been strong contributors to the Board along with the other stakeholders. We see no valid reason for this not to continue. Without the expert nominations and supporting information from all of the current stakeholders we believe that a Minister with the best of intentions would struggle to make the judgements required to choose the most appropriate nominees. At worst, it has the potential to see a Board that has no real expertise or understanding in or of the profession.

Such a reduction also means that a quorum (14(1)) could conceivably be as few as five with no practising teacher in the mix making significant decisions about the profession.

## **6 Functions of the Teachers Registration Board**

6(ab) does not reference tertiary institutions as the providers of initial teacher education programs. This is of concern because we believe this opens the door to other commercial market players such as Teach for Australia which enables a ‘*back door*’ entry to the profession without the rigour of an accredited course from an approved university.

## **7 Welfare and Best Interests of Children**

The object of the Act, 4, adequately describes its purpose in that it states that it is ‘*to safeguard the public interest in there being a teaching profession whose members are competent educators and fit and proper persons to have the care of children.*’ While we are mindful of the recommendations of the Royal Commission into Childhood Abuse and Neglect we feel that the current object of the Act satisfies the imperative that children are kept safe and treated respectfully. The inclusion of 7, where the ‘*welfare and best interests of children is the paramount consideration*’ implies that the Act is a child protection instrument above all else. An integral part of the teacher’s role is to provide a safe context for the education of children. This is supported by the role of the Board in requiring police checks and Working With Children Checks, in addition to cross sector Protective Practices Guidelines and mandatory reporting requirements, but their principal role is that of educator. The proposed change from ‘*primary consideration*’ to ‘*paramount consideration*’ is unnecessary and could have unforeseen consequences, particularly with a change in the composition of Board members.

## **10 Terms and Conditions of Membership**

Limiting the ability of a member to be appointed for no more than three terms or nine years wastes the intellectual and cultural capital gained through experience. We believe that is particularly the case with registered teachers who are active members of the Board's committees and panels. The Member's role is a commitment in addition to what is more often than not a full time teaching role so that the number of committees and panels that they are able to engage with is limited over a given period of time. This means that it takes time to develop the experience and knowledge that are so valuable for this role.

## **16 Committees**

16(3) needs to specify teacher members are part of each of the Board's committees. These committees are pivotal to the functions of the Board in carrying out the objects of the Act and as such registered practising teachers should be mandated on those committees.

## **17 Delegation**

17(2) should not delete the reference to teacher being required on an inquiry panel for the same reasons put with regard to the Board's committees.

## **23A Annual Fee**

The IEU does not oppose the ability to have annual fee if it is the member's choice. The wording needs to be clear that the option of an annual payment is the amortisation of the optional five year fee, not an annual fee that may be subject to increases over the five year period of registration.

## **24 Conditions of Registration**

24(2)(ii) We have concerns about the addition of this section in the absence of any definition of '*poor performance*'. As such it is open to oppressive misuse by employers to the detriment of teachers.

## **26 Term of Registration**

We are supportive of extending the registration cycle to five years to align with the Working With Children Check.

### **31B Codes of Conduct**

We understand the proposal in 31B regarding the development of '*codes of conduct*' reflects one of the suggestions arising from the National Review into Teacher Education but it raises issues which do not appear to be addressed in the proposed changes. An over-arching code of conduct may assist in the clarification of '*fitness and propriety*' and what may be deemed to be appropriate professional standards in relation to behaviours as opposed to qualifications, but the fact that the Board does not appear to have any requirement to consult with the profession more broadly to develop such a code is of concern. This is particularly so if the Board is not required to include practising teachers. Currently most of the schools in the Non Government sector do have staff codes of conduct. The IEU would not be opposed to an aspirational document developed and agreed through consultation with the Catholic, Lutheran, Independent and State sectors.

### **31C Recognition of Quality Teaching and Educational Leadership**

We do not see any good reason for the proposed inclusion of the Board having oversight and accreditation of Highly Accomplished Teacher and Lead Teacher certification. This is currently being adequately managed by AITSL as it should be. AITSL was the instigating body for the Professional Standards and the training of teachers to sit on peer assessment panels across the Catholic, Independent and State sectors. There are no issues with the way that this is being managed so it should therefore continue to fulfil this role and associated functions. This proposal would also add a significant workload to be managed by the Board even with its current numbers. It would need significant additional resourcing and delegating of roles for no advantage to the Board or teachers accessing the certification.

We have no issue with the accreditation being recorded on the Registration Certificate (28(2)(bc)).

31C(1)(a) refers to the application of the regulations in recognising the attainment of teachers '*and others*'. The object of the Act is to '*maintain a teacher registration system*' so we do not see how '*other persons*' is relevant. The Board is only has jurisdiction over teachers.

### **32A Constitution of the Teachers Registration Board**

A teacher should be mandated to be one of the three members exercising a power under the Act for the reasons given in 16 Committees and 17 Delegations.

### **34 The Registrar May Conduct Investigation**

34(3a) appears to deny natural justice. It allows the Registrar or '*a person authorised by the Registrar*' to suspend or cancel registration without the teacher having the benefit of an inquiry to establish facts of the matter. As a matter of natural justice there should be provision for a hearing to determine if refusal reasonable.

We are concerned that '*unacceptable risk*' (34A) is not definitive enough for a teacher to have their registration suspended without the opportunity to be heard and that 34A(8) highlights this.

### **Summary**

While we have addressed a number of proposed changes to the Act, our most serious concerns and vigorous opposition focus on the changes to the selection process for the members of the Board and reduction in the size of the Board. We believe this has the potential to strip the Board of its collective wisdom and broad experience and to deny input from essential stakeholders. We know that the loss of the requirement to have at least half of the Board members as practising teachers will be detrimental to the crucial roles carried out by the Board for the profession; and hence, the profession itself and individual teachers. This will be the case not only because of the loss of expert knowledge but the reduction in numbers of the Board – meaning, at the very least, lengthy delays in carrying out the Board's functions. These functions are critical to the ability of a teacher to teach, so it will impact on the reputation of the profession and the individual lives and livelihoods of the teachers the Board is meant to support.

Authorised by

**Glen Seidel**

**Secretary**

Independent Education Union South Australia

November 8, 2019.