

Registration Amendment Bill 2019

Submission of the Independent Education Union Victoria Tasmania

1.0 Introduction

The Independent Education Union Victoria (IEU) is pleased to provide a submission in response to the consultation version of the Teachers Registration Amendment Bill 2019.

2.0 Proposed Amendments in Respect to Registration to Work with Vulnerable People

2.1 The proposed amendments in respect to Registration to Work with Vulnerable People (RWVP) mean in effect that the Teacher Registration Board (TRB) has the discretion to suspend or cancel the registration of a teacher without undertaking a disciplinary process if:

- it is satisfied that the teacher does not hold Registration to Work With Vulnerable People (RWVP); or
- the teacher's RWVP has been suspended, and the suspension has not been revoked.

When suspending registration, the TRB must serve notice of that decision on the teacher, the teacher's employer and corresponding registration authorities. The TRB may revoke the suspension of a registered teacher if satisfied that the teacher holds vulnerable person registration and is of good character and fit to be a teacher.

2.2 The IEU is opposed to the proposal to remove the requirement for the TRB to carry out a general inquiry or conduct a hearing prior to the suspension or cancellation of a teacher's registration in respect to a teacher not holding vulnerable people registration, or that registration having been suspended and not revoked.

The IEU notes that TRB already has powers of emergency (immediate) suspension prior to an inquiry if the Board believes on reasonable grounds that a registered teacher or holder of limited authority may pose a risk of harm to a student. In this instance, TRB is required to ensure that an inquiry is carried out expeditiously.

2.3 IEU believes that the **current powers** outlined in the Teachers Registration Act 2000:

- (i) are sufficient and appropriate to deal with the issue of not holding RWVP, specifically in:
 - decisions to register and renew registration;
 - determinations of whether a person is or remains of good character, which includes the requirement to hold RWVP;
 - decisions to suspend or cancel limited authority to teach without conducting an inquiry;

- decisions to immediately suspend the registration or limited authority of a person through emergency suspension where TRB believes on reasonable grounds that a registered teacher may pose a risk of harm to a student.
- (ii) afford the necessary natural justice by requiring an inquiry/hearing prior to suspension and cancellation of registration. The TRB should be required to inquire, for example, into whether there are any extenuating circumstances which should be taken into account, particularly before cancellation of teacher registration. For example, there may be reasons why a teacher may not hold RWVP, such as having inadvertently failed to renew their RWVP, which should be considered by TRB. In such an instance, the teacher would need to re-apply for RWVP and an appropriate TRB response may be suspension for a specified period and not cancellation of teacher registration. There may be other instances such as where a teacher is appealing a decision of a negative notice and this process is in train.

3.0 Proposed Amendments Related to Data Sharing

- 3.1 The IEU understands that the amendments proposed are aimed at allowing the TRB to make available some data with a number of bodies which will be prescribed in regulation, not the Act itself. The IEU notes that the Information Fact Sheet prepared by the Department of Education makes reference to other state and territory teacher registration authorities, as well as to other workforce initiatives for which the ability to share data with government agencies may be required, including the response to recommendations of the Royal Commission into Institutional Child Sexual Abuse, recommendations from the National Review of Teacher Registration and developments of the National Teacher Workforce Strategy, agreed through the National School Reform Agreement.
- 3.2 The IEU notes that the Bill does not propose to amend the type of data listed currently in section 25 (2) of the Act, nor to amend section 25 (4) which currently specifies the particular data sets of information listed in 25 (2) that will be provided by TRB on request to either
- persons (unspecified), and
 - a teacher employing authority.

Section 25 (4) (a) provides for the data to be made available automatically on request to any person, and 25 (4) (b) requires the Board to consider whether it is appropriate to make available the data specified in (2) (k) requested by any person.

Section 25 (4) (c) specifies the way in which a request for data from a teacher employing authority is dealt with, including automatic availability of the data specified in section 25 (2) (d), (e) and (m); and also the availability of other particulars if the holder of registration or limited authority has given his or her consent.

- 3.3 The IEU is primarily concerned with three key principles articulated below in respect to data sharing which necessitate amendment to section **25 (4)**.

The IEU believes that this section needs review and a number of amendments, and that simply an additional section 26A as proposed in the draft Bill is not sufficient to make necessary improvements in transparency and the processes for data sharing.

Key principles:

- (i) the Board should **consider** all requests and make a decision as to the appropriateness of the data sharing in the particular circumstances as is the case currently only in 25 (4) (b). The IEU is concerned that data is not shared *automatically* on request. It would therefore be available to the Board to allow the sharing of certain data on a case by case basis or on an ongoing basis (such as with other state and territory registration bodies);
- (ii) that any persons or bodies with whom data is shared are clearly specified and specified in the Act not through prescription in regulation. Currently this only applies to a teacher employing authority in section 25 (4) (c) of the Act. If other state and territory teacher registration bodies are to have data made available, these bodies should be specified in the Act.

In particular, the IEU believes that current section 25 (4) (a) requires specific amendment to make clear who is the “any person” referred to, and that the Board should consider a request before the provision of data;

- (iii) the IEU believes that the specific type of data to be made available to specific identified classes of persons or bodies should also continue to be specified in the Act, not through prescription in regulation.

4.0 Further Consultation on Draft Bill

The IEU requests that its response be considered and that there be further consultation in respect to any further amendments or changes to the current draft.

*Authorised by Debra James General Secretary Independent Education Union Victoria Tasmania
20 September 2019*

19-632/EDU8085/DF19/19