



Office of the
Director-General

Department of
Education

11 MAR 2019

Ms Leanne Linard MP
Chair
Education, Employment and Small Business Committee
Parliament House
Email: eesbc@parliament.qld.gov.au

Dear Ms Linard

In response to your email on 6 March 2019, please find enclosed a response from the Department of Education to submissions received by the Education, Employment and Small Business Committee on the Education (Queensland College of Teachers) Amendment Bill 2019.

If the Committee has any questions or requires any additional information, please contact Ms Susan Masotti, Acting Director, Legislative Services Unit, on (07) 3034 5981 or email susan.masotti@qed.qld.gov.au.

I trust the enclosed material is of assistance.

Yours sincerely

TONY COOK
Director-General

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Department of Education – Response to Submissions to the Education, Employment and Small Business Committee regarding the Education (Queensland College of Teachers) Amendment Bill 2019

No.	Stakeholder	Stated Position / Issues Raised	Department of Education (DoE) Response
1	Queensland Teachers' Union (QTU)	<p>The QTU strongly supports the Bill.</p> <p>The QTU supports the Queensland College of Teachers (College) as the certifying authority and supports the high-level framework provided by the Bill to give the College flexibility to change process if the national certification framework changes in the future.</p>	DoE notes QTU's support for the Bill.
2	Queensland College of Teachers (College)	<p>The College raises no issues with the Bill.</p> <p>The College states that the legislative amendments to enable it to perform the role of certifying authority may contribute to raising public confidence in, and the status of, the profession. It further notes that the College 'is uniquely placed to work across all sectors and schools to create a consistent, profession-wide assessment of exemplary teaching'.</p>	DoE notes the College's support for performing the role of certifying authority, consistent with the provisions in the Bill.
3	Independent Schools Queensland (ISQ)	<p>The ISQ states it does not have any issues with the Bill.</p> <p>The ISQ states the provision of the College as a 'nationally recognised certifier of Highly Accomplished and Lead Teachers in Queensland is a positive initiative with significant benefits for the teaching profession and schools.'</p> <p>The ISQ notes the Bill provides for teachers in State and Catholic schooling systems to be eligible to apply to the College for certification, and should the independent sector in the future determine it is appropriate for the College 'to undertake the certification process in respect of teachers employed in the independent schools, the Regulation would be amended to include employing authorities for non-state schools represented by the ISQ'. ISQ further notes it 'will continue to act as a certifying authority and requests the College to position the ISQ as an appropriate, viable and equal body to act as an authority for independent schools'.</p> <p>ISQ notes that the review processes provided for in the Bill in relation to the College's certification decisions (with internal review followed by recourse to external review at the Queensland Civil and Administrative Tribunal) differ from the review practices for the ISQ decisions, which are a review of procedure only.</p>	<p>DoE notes ISQ's statement that it has no issues with the Bill.</p> <p>DoE notes that, consistent with ISQ's position, should the independent sector wish to participate in the scheme in the future, amendment can be made to the Regulation to include employing authorities for independent schools.</p> <p>With regard to ISQ's comment on review processes, DoE notes that as the College is a statutory authority, it is appropriate for its decisions in relation to certification be subject to appropriate internal and external review processes (consistent with its registration decisions) to ensure transparency and accountability. It should be noted that in New South Wales (NSW) and the Australian Capital Territory (ACT), where the teacher registration authority is also a certifying authority, review processes are prescribed, with external review to the relevant jurisdiction's Civil and Administrative Tribunal.</p>
4	Queensland Catholic Education Commission (QCEC)	<p>QCEC states it supports the Bill to enable the College 'to perform the role of a certifying authority for the certification of highly accomplished and lead teachers in Queensland Catholic schools and teachers in Queensland State schools against the national Australian Professional Standards for Teachers.'</p> <p>QCEC notes the prescribed application fee (\$1500) will not cover the full cost of certification services and states the 'QCEC anticipates the full cost will likely be significantly greater than the prescribed amount and that the additional amount will need to be met by employers and employing authorities.'</p> <p>QCEC further states 'concern that the Bill does not contain provision to enable the College to revoke certification of highly accomplished and lead teachers and asks the Committee to consider including provision for revocation'. The QCEC 'suggests there is a reasonable public expectation that teachers whose actions bring themselves and/or the teaching profession into disrepute would not be able to continue to hold highly accomplished or lead teacher certification.'</p>	<p>DoE notes QCEC's support for the Bill enabling the College to perform the role of certifying authority.</p> <p><i>Fees</i></p> <p>DoE notes that the prescribed application fee may not cover the full cost of QCT's certification services. This will depend on a range of variables including the number of applications received each year, the experience of assessors and resulting number of moderations undertaken. The fee structure was developed with the intention that fees be within the capacity of teachers to pay, including staging fees so that teachers were not required to pay for Stage 2 of the process if not successful at Stage 1. It is intended that applicant fees significantly contribute to the costs of the Certifying Authority, while not representing a significant impediment or disincentive to applicants.</p> <p>However, the Bill also allows for different fees to be set for teachers from different sectors.</p> <p>The proposed prescribed fees for the State and Catholic sectors, currently \$850 for Stage 1 and \$650 for Stage 2, can be changed in the future to reflect costs to particular employing authorities, should it be deemed necessary.</p> <p><i>Revocation</i></p> <ul style="list-style-type: none"> The purpose of the Bill is to give the College the necessary functions to perform the role of certifying authority and undertake certification in accordance with national framework for HAT and LT certification as set out by Australian Institute for Teaching and School Leadership (AITSL) in the Guide to the Certification of Highly Accomplished and Lead Teachers in Australia, and associated national policy. The national framework does not provide for a process for any certifying authority to revoke a certification. There is no legislated authority to revoke certification in any jurisdiction in Australia, including NSW and ACT, which have a legislated certification process by their teacher registration authority Legislative provisions which provide for an ability to revoke certification would therefore be beyond the scope of the current national framework.

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			<ul style="list-style-type: none"> • Any disciplinary or performance related issues can be dealt with under current employment processes for the relevant employing authority. These should be dealt with in accordance with the usual disciplinary processes in each jurisdiction, and according to the law. • Employing authorities are not required by the Bill to recognise or remunerate certified highly accomplished and lead teachers. Recognition and remuneration are subject to industrial arrangements. • The College also has powers under the <i>Education (Queensland College of Teachers) Act 2005</i> to take disciplinary action against a teacher’s registration, including suspension and cancellation. Without registration, a teacher cannot teach in a Queensland school. • Certification is subject to reassessment against the standards every five years. If a teacher no longer meets the standards for certification they will not be renewed. • There would need to be significant policy work undertaken on what grounds revocation should and could occur, to determine the scope, application and effect of a revocation scheme for inclusion in this Bill, with subsequent consultation with all affected stakeholders. • Without a consistent national policy on revocation, it is not clear as to how a revocation process would work within the national framework, including: <ul style="list-style-type: none"> – legislating that the College can revoke certification it has granted does not provide for revocation of certification by other certifying authorities (such as ISQ or interstate authorities). This may create a situation of a dual framework where teachers certified by ISQ or interstate authorities who teach in Queensland’s State or Catholic sector could not have their certification revoked, while teachers certified by the College can; and – it is unclear as to whether Queensland legislation could force AITSL to remove a certified teacher from the AITSL register, or force another certifying authority to no longer recognise certification. • As noted in DoE’s written brief to the Committee, the issue of revocation was raised by QCEC during consultation during the drafting process of the Bill. Consideration was given to including provisions in the Bill to allow the College to revoke certification, but a decision was made not to include such provisions for reasons outlined above. • DoE is prepared to work with QCEC, AITSL, the College, and other certifying authorities to consider and develop a policy in relation to revocation as part of the national certification framework in the future. Should the national certification scheme change to include a process for revocation by certifying authorities, consideration would be given at that time as to whether amendments are made to the legislative scheme. However, it is considered that this should be done consistent with any national scheme.
5	Queensland Independent Education Union (QIEU)	<p>QIEU states that it believes ‘certification of Highly Accomplished and Lead Teachers, in conjunction with appropriate levels of remuneration, is a positive development that encourages skilled and experienced teachers to remain within the profession’. QIEU further states that the College is uniquely positioned to fill the role of certifying authority and this new role is an appropriate and timely extension of its existing function.</p> <p>QIEU raised two issues, as outlined below.</p> <ol style="list-style-type: none"> 1. The Bill limits eligible teachers who can apply to the College for certification to teachers employed in the State and Catholic sectors. QIEU suggest that amendments to the Regulation should provide for employing authorities for independent schools also to be prescribed as this would ‘future proof’ the legislation. 2. QIEU proposes a minor amendment to clause 5 of the Bill, specifically in relation to section 230B(2)(a) to ensure that the head of power is sufficient to ensure the College can accept certification applications. 	<p>DoE notes QIEU’s support for the College to perform the role of certifying authority.</p> <p><i>Issue 1 – eligibility to include teachers in independent sector</i></p> <p>DoE respectfully notes QIEU’s position on this matter.</p> <p>The limitation on eligibility with regard to a teacher’s employing authority was included in the Bill for the reasons outlined below:</p> <ul style="list-style-type: none"> • ISQ is currently an AITSL approved certifying authority. Teachers employed by independent schools are able to seek certification through ISQ. • ISQ, in its submission, has stated it wishes to continue to be an ongoing certifying authority for teachers in the independent sector and seen ‘as an appropriate, viable and equal body to act as an authority for independent schools’. • Employing authorities, or entities that represent the employing authorities, will assist the College in the assessment process. Therefore, it is important the College and a relevant employing authority (or representing entity) have in place an agreement about administrative arrangements and associated costs before a teacher employed by that employing authority can apply to the College. For example, employing authorities will provide assessors that support the College in making its final decision. Employing authorities may bear some of the costs in the assessment process (such as backfilling of assessors in their normal teaching role).

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			<ul style="list-style-type: none"> • Neither the ISQ nor any individual independent school have entered into discussions with the College with regard to cost and administrative processes relating to certification, as this has not been required because it was understood that ISQ would continue to be the certifying authority for independent schools. If the legislation were to allow independent schools’ teachers to apply to the College, then such teachers could apply and the College would have to manage the process without an arrangement being in place with the employing authority or representing entity. • This could lead to significant costs and administrative issues for the College; and allowing independent schools’ teachers to apply to the College for certification, while ISQ remains a certifying authority, may require situations to be managed where teachers attempt to apply to both ISQ and the College. • Should ISQ choose to become a participating sector following discussions with the College, an amendment can be made to the Regulation to allow teachers employed in that sector to apply, without the need for a Bill to be considered by Parliament. This is considered sufficient to ‘future proof’ the legislation.’ <p><i>Issue 2 – Head of power</i></p> <p>The Bill was drafted with careful consideration as to ensuring the College has the appropriate authority to undertake the role of certifying authority. Accordingly, section 230B(1) provides that the College has the function of administering the process for the certification of teachers under chapter 2A, which clearly provides for applications being made to the College under sections 67A, 67B, 67J and 67K. Subsection 230B(2) clarifies some key functions of the College, but also clearly states that it does not limit subsection(1), therefore does not prevent the College from accepting applications.</p> <p>DoE respectfully notes QIEU’s position on this provision, but believes no amendment is required.</p>