

# IEUA-QNT SUBMISSION

30 September 2021

## Submission: Northern Territory Department of Education – Education Engagement Strategy Discussion Paper

The Independent Education Union – Queensland and Northern Territory Branch (IEUA-QNT) welcomes the opportunity to provide feedback regarding the Northern Territory Department of Education’s Discussion Paper relating to the Review of Part 7 of the Education Act 2015: Regulation of non-Government schools.

### About IEUA-QNT

IEUA-QNT represents ~17,000 teachers, support staff and ancillary staff in non-government education institutions in Queensland and the Northern Territory and consistently engages in industrial and education debate at both state and national levels through its Education and Industrial Committees and through its national counterpart, the Independent Education Union of Australia, which receives input from teachers in all States and Territories.

Our responses to the discussion questions are grouped under the summary headings used in the Discussion Paper (p. 3).

### Child Safety, wellbeing and behaviour management

1. **Should all non-government schools be required through the Act to adhere to the Child Safe Standards? Should this be applicable to all schools, government and non-government?**
  - 1.1 Child safety is of paramount importance in both government and non-government schools and it is, therefore, imperative that the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse are carried forward in terms of concrete changes to the way in which schools and other organisations operate.
  - 1.2 The National Principles for Child-safe Organisations [1] are an appropriate framework for adoption by non-government schools and we would suggest that their adoption could be linked to registration as a “Matter to be considered” under section 136 of the Act.
  - 1.3 Compliance with the National Principles would however, represent a significant administrative undertaking and schools may require additional government resourcing to meet any new legislative requirements.

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- 2. Should the Act provide standards for suspension, exclusion and expulsion for non-government schools?**
  - 2.1 Given the high proportion of vulnerable and First Nation students in Northern Territory schools [2], it is appropriate for Government to take an active role in developing and enacting frameworks to support greater engagement and minimise schools' dependence on suspension, transfer and exclusion.
  - 2.2 While we would support both amendments to the Act that would place limits on schools' reliance on suspensions, transfers and exclusions, and the requirement to notify the registrar, we would argue that these measures must be supported by concrete strategies to increase engagement at all levels of education and schooling.
  - 2.3 In that context, we recognise that the department is also developing a clear Engagement Strategy [3] and would emphasise that this will be crucial to reduce schools' reliance on suspensions, transfers and exclusions.
  
- 3. Should there be a legislative requirement for non-government schools to notify the registrar/department of a student suspension, exclusion or expulsion?**
  - 3.1 We recognise that a requirement to notify the registrar/department of suspension, exclusion or expulsion would allow relevant authorities to provide support to vulnerable students but would again argue that a greater emphasis on engagement in the first instance would be more effective.
  
- 4. Should information sharing provisions be strengthened within the Act to allow the department to better respond to vulnerable students? What should be in and out scope for information sharing?**
  - 4.1 While it is important that a contemporary education system incorporates mechanisms for identifying, and increasing support for, vulnerable students, the identification of individuals is potentially problematic.
  - 4.2 It would be more effective to develop mechanisms by which schools can refer students to external support services, and to adequately and appropriately resource those support services, so that they can work with vulnerable students to encourage their reengagement with schooling.
  
- 5. Should the Act be amended to include an additional provision for non-government schools to encourage school attendance?**
  - 5.1 Providing material incentives for students to attend school is not appropriate and, therefore, should not be enabled by legislation.
  - 5.2 A more effective approach is to increase resources available to schools to work with at-risk students.
  - 5.3 The most effective resources for schools working with at-risk students and their families may be internal or external to the school and could range from intensive

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one-to-one counselling, through to medical/health support and access to alternative learning programs.

- 5.4 Supporting schools and communities to locate and access appropriate support services that will enable vulnerable students to re-engage with schooling should be prioritised over legislation enabling schools to develop material incentive schemes.

### Financial viability and reporting

#### **6. Should there be a legislative requirement for a non-government schools, or sector, to provide advice on barriers to operations?**

- 6.1 Identification of ongoing and/or temporary barriers to operation should be a fundamental element in the operation of schools, which must continually revise their pastoral and educational programs to meet the needs of different individuals and cohorts.
- 6.2 The question of whether a legal requirement to report on financial barriers to operation will be beneficial or detrimental depends on how this information will be used. If the intention is to connect schools with programs or resources that might help them overcome the identified barriers, this may be helpful.
- 6.3 If reporting of barriers to operation is enacted, we would suggest that this might form part of the annual self-assessment required under section 145 of the Act.

#### **7. Should the Act better recognise the varying models of governance and operations within the non-government sector? For example, the situation that many non-government schools sit within a broader system of schools? Should financial accountability and reporting requirement extend to these bodies?**

- 7.1 The diversity of the non-government school sector presents challenges, but it is appropriate that, where recurrent government funding is received by a single governing body on behalf of a network of individual schools, the governing body should be accountable for the distribution of that funding.
- 7.2 It would be appropriate for that accountability to be specified in the Act.
- 7.3 An extension to accountability and reporting requirements would however, require additional funding/resourcing to be made available to schools, or school systems, to ensure that they have the capacity to meet reporting obligations.

#### **8. How should the Act be amended to strengthen the financial provisions?**

- 8.1 Where schools receive recurrent government funding for the purposes of providing learning programs to students, funding agreements are an appropriate mechanism of ensuring that funding is used for the stipulated purpose.
- 8.2 It is appropriate that schools in receipt of government funding should be subjected to audit to determine that funding is used for the purposes for which it is provided.

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- 8.3 Introduction of more explicit and/or additional funding agreements should be accompanied by clear stipulation, within legislation, of financial reporting requirements.
- 8.4 Given that current compliance is not well resourced however, an extension to financial reporting requirements is likely to require an increase in funding/resources.

### Registration

#### 9. How should the existing registration requirements be updated?

- 9.1 The proposed areas that must be addressed for registration purposes (p.10 of Discussion Paper) are appropriate, as is a shift in emphasis from documentation of policy to demonstration of practice.

#### 10. Should the registration requirements be amended to allow for a greater focus on the effectiveness of how requirements are operationalised?

- 10.1 Assessment of process and practice, rather than policy documentation would represent a significant change in the procedures by which compliance with registration requirements is assessed.
- 10.2 The obvious requirement for government officers to undertake investigations of school practice will require training and development of existing staff and/or recruitment of new staff.
- 10.3 While we would support a more comprehensive assessment of school operations, rather than the policy documentation approach which has been previous practice, the requirement for schools to have specific policies in place should not be diminished as policy documents provide an important point-of-reference when breaches of policy occur.

#### 11. How should the registration requirements be set out within primary legislation, regulation and/or policy?

- 11.1 The introduction of new processes by which compliance with registration requirements is evaluated will take time, and the processes themselves may pass through several iterations before they work effectively and efficiently.
- 11.2 It would, therefore, be appropriate for the changes to be set out in regulation or policy in the first instance.

#### 12. Should the Act be amended so that greater oversight is afforded, and guidance provided, to new schools in their first 12 months of registration? If so, which option would be the most effective and why?

- 12.1 It is intuitively obvious that new schools should be given significant guidance and support, and subject to greater oversight, in their first 12 months of registration.

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This option would be preferable to Option 2 (p. 11 of discussion paper), which would see all non-government schools awarded registration in the first instance, with an emphasis on an initial assessment of the school's operation in the first 12 months of registration.

- 12.2 The preferred approach would also provide students and families with greater confidence enrolling in a new school as a supportive framework would deliver greater continuity of learning.

### Assessment and review

**13. Should the processes for assessment, registration and routine, be combined so that there is one pool of qualified and trained persons? Should this pool be extended to include investigators conducting a special investigation?**

- 13.1 The establishment of a single pool of trained individuals capable of undertaking a review at any point in a school's registration process would simplify existing processes without compromising efficacy.

**14. Should the Act be amended to include training requirements for assessors? Should this also apply to investigators?**

- 14.1 It is desirable that those undertaking assessment of schools' compliance with the conditions of registration undergo training to ensure that they have the required knowledge and skills, to ensure that there is transparency and consistency of assessment processes.
- 14.2 Training requirements might however, be better specified in the regulations, to allow updating as best practice evolves.

**15. Should processes for assessment be more flexible to allow for multiple schools to occur concurrently through a school system or school group? Should this principle also be extended to the registration process?**

- 15.1 In our extensive dealings with large, systemic employers, individual schools show significant variation in matters with regard to educational programs and operational approaches.
- 15.2 This variation is a defining feature of the non-government school sector and we would caution against any move to allow grouping of schools for registration purposes. Any such grouping might be attractive to schools in that it would reduce administrative burdens, but the increased risks to students and families in assessing registration compliance at any level higher than that of the individual school cannot be underestimated.
- 15.3 Although the Northern Territory contains relatively few non-government schools compared to other jurisdictions, the vulnerability of many students and

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communities means it is essential that assessment of registration compliance occur at the school level.

### Decision-making and review

#### **16. Should the Act be amended to include NTCAT as a recourse available to a decision made by the registrar?**

- 16.1 It is important that processes and procedures for the registration of non-government schools are transparent, and that there is a meaningful process by which decisions can be reviewed.
- 16.2 Although section 156 of the existing Act indicates that the Minister may review decisions of the registrar, it would be preferable for this process to be independent of Government.
- 16.3 It would appear that NTAC is well positioned to provide an independent avenue of recourse available to a decision by the registrar.

#### **17. Should greater clarity be provided within legislation of the role and duties of the registrar in exercising their powers under the Act?**

- 17.1 If the role of the registrar is to carry the required weight, it is important that their roles and duties are clearly stipulated in the relevant legislation.
- 17.2 We note that various sections of the current Act (e.g. Section 123 and 128) make oblique reference to the functions of the registrar, but we believe that the Act would benefit from clearer specification of roles and duties.

### Complaints and Special Investigation

#### **18. Should the Act be amended to include specific requirements on complaint response for non-government schools and/or the governing body?**

- 18.1 It is appropriate that the legislation be modified to require schools to have not just a complaints policy, but also clear processes for receiving, assessing, investigating and otherwise dealing with complaints.
- 18.2 These processes should include measures to ensure procedural fairness and be sufficiently explicit that all relevant stakeholders are aware of their existence.

#### **19. Should the role and responsibility of the registrar in responding to complaints relating to a non-government school be provided within the Act?**

- 19.1 Given the vulnerability of school students within education systems, and the significant impact that negative school experiences can have on individuals, families

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and communities, it is important that processes for dealing with complaints are explicit within legislation.

19.2 This includes the role and responsibility of the registrar.

19.3 As noted in our response to Question 17, above, we believe the Act would benefit from a specific section outlining the roles and responsibilities of the registrar.

### **20. Should the Act be updated to make more explicit the disciplinary action that can result from a special investigation? Should the current disciplinary provisions (variation, suspension or cancellation of registration) be reviewed and penalty units added?**

20.1 As noted in our response to Questions 18 and 19 above, our union supports a full and clear articulation of all processes and procedures relating to complaints and disciplinary decisions.

### **21. Are there any other areas of the Act where you would like to see reform?**

21.1 We note that the current section 130 (1) (g) of the Act currently provides scope for schools to be operated for profit. We would suggest that the concept of for-profit schooling is highly problematic. Although we note that section 140 (3) indicates that for-profit schools will not be eligible for government financial assistance, it seems irresponsible for the Act to allow the possibility of for-profit schooling in vulnerable communities.

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### Concluding Comments

IEUA-QNT thanks the Northern Territory Department of Education for the opportunity to provide feedback in relation to its Discussion Paper relating to the Review of Part 7 of the Education Act 2015: Regulation of non-Government schools.

We are broadly supportive of reforms that enhance clarity around the expectations of non-government schools, and the procedures and processes for dealing with complaints and disciplinary matters.

We do note however, that some of the proposed changes that relate to students' experiences in non-government schools (e.g. the use of suspensions, exclusions and expulsions) need to be considered within a broader, educational framework in terms of how schools are supported and resourced to maximise student engagement and how students and their families might access external support services that might make their re-engagement with school more successful.

We look forward to the opportunity to comment on the draft legislation in due course.



**Terry Burke**  
**Branch Secretary**  
**Independent Education Union of Australia -Queensland and Northern Territory Branch**  
**30 September 2021**

### References

1. Australian\_Human\_Rights\_Commission, *National Principles for Child Safe Organisations*, A.H.R. Commission, Editor. 2019, Australian Human Rights Commission: Sydney.
2. Australian\_Bureau\_of\_Statistics. *Education Statistics for Aboriginal and Torres Strait Islander Peoples*. 2020 [cited 2021 3 June]; Available from: <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/education-statistics-aboriginal-and-torres-strait-islander-peoples/2018-19>.
3. Northern\_Territory\_Department\_of\_Education, *Education Engagement Strategy: DISCUSSION PAPER*, Education, Editor. 2021, Northern Territory Government: Darwin.