



**Joint Submission of the Queensland Teachers' Union of Employees and Independent Education Union of Australia – Queensland and Northern Territory Branch to the Queensland Department of Education's focussed review of the *Education (General Provisions) Act 2006*: Data sharing and consent management**

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## About this submission

1. This joint submission responds to the Department of Education's (DoE) consultation paper titled *Data sharing and consent management*. The consultation paper is a part of the DoE's focussed review of the *Education (General Provisions) Act 2006* (Qld) (EGPA), and this joint submission supplements the Unions' responses to the ten initial consultation papers that have previously been provided to the DoE.
2. The Queensland Teachers' Union (QTU) and Independent Education Union Australia -Queensland and Northern Territory (IEUA-QNT) recognise the DoE's focussed review of the EGPA has three themes:
  - i. Protecting students
  - ii. Providing for the good working order and management of schools
  - iii. Modernising and improving the provision of education services.
3. The QTU and IEUA-QNT believe that the review of the EGPA is also an opportunity to:
  - i. recognise the significant and unique role of Queensland's teaching profession
  - ii. place downward pressure on workload experienced by Queensland's teaching profession
  - iii. prepare for change, technology and future work in Queensland schools.
4. This submission to the DoE's focussed review of the EGPA is made in the interests of our members, as well as the hundreds of thousands of students whom our members teach every year. The QTU and IEUA-QNT recognise that legislative reform cannot be viewed without consideration of how the proposed reforms will impact upon resourcing of schools and workload of teachers and principals. The QTU and IEUA-QNT express disappointment that the consultation papers have not been more transparent in explaining the impacts of proposals on resourcing and workload. The QTU and IEUA-QNT call on the DoE to ensure a specific budget impact statement and a separate workload impact statement are provided in any future proposals arising from the review process, and that both statements are available to stakeholders.
5. The QTU and IEUA-QNT acknowledge that the DoE's *Data sharing and consent management* consultation paper:

...considers the provisions of the EGPA and current practice related to the disclosure of personal student information given:

- *the significant shifts in the ways that schools provide their educational services, including increasing reliance on curriculum-aligned and quality assured private services; and*
- *the state's engagement in national information sharing projects, including national policy initiatives (NPIs) under the National School Reform Agreement (NSRA).*

6. A summary of the QTU and IEUA-QNT responses to the DoE's *Data sharing and consent management* consultation paper is included as Appendix A to this submission.

## About the QTU

7. Established in 1889, the QTU has chalked up 130 years of achievement as the professional, industrial, and legal voice of Queensland's public education and training sectors throughout regional, remote, and metropolitan Queensland. In 2022, the QTU represents more than 48,000 members of the teaching profession who are employed in special schools, primary schools, secondary schools, other specialist school settings, and TAFE.
8. The QTU's advocacy represents the collective voice of Queensland's state school teachers and TAFE educators and it is heard through our democratic structures. The supreme decision-making body of the QTU is our State Council, which is comprised of more than 120 democratically elected representatives from every branch throughout the state. Policy positions that have been adopted by QTU State Council underpin this submission.
9. The QTU has a proud history of advocating for policies that improve Queensland education and state schooling. This submission draws on QTU positions including, but not limited to: reducing workload of teachers and school leaders; school codes of conduct and student behaviour; child safety and school communities' right to safety; the right of every young Queenslanders to be able to access excellence in education; and the role of governments to allocate resources so that schools can deliver excellence and equity.
10. This submission builds on the QTU's comprehensive understanding of 21st Century risks to the safety and wellbeing of students, teachers, and school

leaders. While the QTU commends the DoE for its comprehensive engagement with stakeholders throughout the review of the EGPA, the QTU does not accept that the collective safety and wellbeing of school communities, including their right to privacy, should be placed at risk to accommodate the concerns raised by parties who have limited experiential knowledge and understanding about the daily operations of Queensland state schools.

11. The QTU is affiliated with the IEUA-QNT through our membership of the Queensland Council of Unions, the peak body for Queensland's trade unions.
12. The QTU stands in solidarity with the IEUA-QNT and its representations to the review of the EGPA, which are made in the interests of teachers, school leaders, and education assistants employed in the Catholic and Independent school sectors.

### About IEUA-QNT

13. IEUA-QNT represents approximately 16,000 teachers, support staff and ancillary staff in non-government education institutions in Queensland and the Northern Territory, and consistently engages in debate concerning industrial and social issues through its Industrial and Equity Committees and through its national counterpart, the Independent Education Union of Australia, which receives input from teachers in all states and territories.
14. As a union of education professionals in the non-government sector, our interest in the application of the EGPA primarily concerns those sections with direct application in non-government schools, and areas where application in government schools sets precedents that might be extended to non-government schools, non-government school students and non-government school communities.
15. The IEUA-QNT is affiliated with the Queensland Teachers' Union through our membership of the Queensland Council of Unions (QCU), which is the peak body for Queensland's trade unions.
16. The IEUA-QNT stands in solidarity with the QTU and its representations to the review of the EGPA, which are made in the interests of teachers and school leaders who are employed in government schools. The IEUA-QNT supports the submissions of the QTU on the provisions of the EGPA which relate to state education.

## Legislative references

17. The DoE consultation paper, *Data sharing and consent management*, refers to provisions contained in the EGPA, as well the *Australian Education Act 2013* (Cth) and *Australian Education Regulation 2013* (Cth) (pp 1-2). The relationship between Queensland and Commonwealth legislation contributes to the facilitation of Commonwealth funding arrangements for school education, as well establishes the roles of approved authorities regarding the national assessment program.
18. On the matter of Commonwealth funding for government schools, the Unions refer to the current provisions of the EGPA that empower the chief executive to collect demographic information, namely:
- s428(1) *The chief executive may collect demographic information about any of the following and their parents if the only purpose of the collection is to give effect to, or manage, an education funding arrangement,*
- and where,
- s428(3) *In this section— education funding arrangement means a funding arrangement for educational services provided by the State entered into between the Commonwealth and the State.*
19. The QTU and IEUA-QNT note that s428 of the EGPA provides the chief executive with power to collect demographic information, where such collection is “to give effect to or manage” an education funding arrangement. Notwithstanding s428(3), the QTU and IEUA-QNT express concern that the EGPA does not sufficiently protect demographic information from being provided to third parties. For example, a future National Policy Initiative (NPI) could seek to establish a partnership with a global technology company like Google or Apple. Where this partnership informed an education funding arrangement with the states and territories, the Queensland Government could be required to provide demographic information to the global technology company. In effect, the Minister of the day would be forced to choose between protecting or selling the demographic information of Queensland’s youth.
20. The QTU and IEUA-QNT recognise that the matter of data sharing and consent management must appropriately balance the need to disclose

information with the need to obtain consent and ensure appropriate privacy protocols are in place.

21. The QTU and IEUA-QNT recognise that the DoE's consultation paper on *Data sharing and consent management* frames the matter as a vertical conceptualisation where data is shared between schools, government, and government agencies. The Unions contend that the paper has not satisfactorily considered data sharing and consent management as a horizontal conceptualisation where information is exchanged between schools and school sectors.
22. The QTU and IEUA-QNT call on the DoE to ensure that any amendments to the EGPA protect the demographic information of students, their teachers, and principals from being provided to third parties without informed consent, and from being provided in a manner that has the potential to cause harm to students, teachers, principals, school communities, and the teaching profession.

## Consent for online services

*To what extent would the proposed legislative safeguards support management of the disclosure of student information to private entities?*

23. The QTU and IEUA-QNT broadly support the proposed legislative safeguards outlined in the DoE's *Data sharing and consent management* consultation paper. However, this section outlines significant concerns of the Unions regarding potential for harm to students, teachers, principals, school communities, and the teaching profession.
24. The QTU and IEUA-QNT urge the DoE to ensure that the sharing of personal data only occurs with clear limits on:
- (i) the type of data to be shared
  - (ii) where and how data will be stored
  - (iii) the length of time that data may be stored
  - (iv) the purpose for retrieving data
  - (v) personnel who can access the data.
25. The QTU and IEUA-QNT further add that limits must safeguard personal data so that there is quality information sharing and not sheer quantity of information. The Unions believe that supporting teachers and principals to access quality information is more useful to support the needs of a student

and help professional decision-making that delivers the best educational outcomes for that student.

26. The QTU and IEUA-QNT reaffirm our frustration that the DoE consultation paper has not included a workload impact statement. Rather, on the matter of legislative safeguards, the consultation paper states,

*While the ability to opt-out would require some management by schools and teachers, the impact of a minority of students opting out of a particular service would likely fall within the scope of differentiated pedagogy, and not create a significant burden for teachers.*

(DoE, 2022, p. 4).

27. The QTU and IEUA-QNT contend that the statement “not create a significant burden for teachers” is not evidence-based, but is a hypothesis which is not supported by the experiences of teachers. Queensland teachers know the additional burden created when students have not paid their fees and the teacher is instructed to withhold learning resources from their student. Teachers know the additional burden created when bring-your-own-device/s or Information Communication Technology (ICT) systems fail in schools. The burden is more significant than pairing a student with a buddy when they have left their textbook at home.
28. The Unions do not accept the DoE’s hypothesis that an opt-out approach will not create additional workload burdens for teachers. We recognise the experiences will be isolated, but contend that an increase in workload for one teacher is 100 per cent excessive and it fails to address the Unions’ call for the focussed review of the EGPA to place downward pressure on workload.
29. The QTU and IEUA-QNT believe that the chief executive power to review and risk assess and approve service providers, consistent with the Risk Review Catalogue and in a manner that prescribes clear limitations on the sharing of data like those proposed above at [24 and 25], addresses consent for online services. To place downward pressure on workload experiences in schools and classrooms, the Unions do not support the requirement for additional approval processes at the local level. The Unions do not support opt-out provisions.

*Are there other considerations the Chief Executive would need to have regard to in making decisions about consenting to personal student information being disclosed for the purpose of using an approved educational or administrative online service?*



30. The QTU and IEUA-QNT recognise that the matter considered by the DoE's *Data sharing and consent management* consultation paper relates specifically to students. However, the Unions express concern that other government departments (e.g. Justice and Attorney-General), other levels of government (e.g. Commonwealth), or other third parties who can access and retrieve student data can subsequently create student profiles. Such profiles could be used to inform tracking of students that results in harm to the student, their teachers, or school community. For example, a third party might track variance in student achievement levels, form an adverse view on teachers and the school, and then proffer disparaging commentary about a teacher or school community that fails to recognise personal, familial, or social reasons that could account for the variance.
31. The QTU and the IEUA-QNT call on the DoE to ensure that the chief executive's decision-making powers regarding consent include a commitment of no harm to students, their teachers and school community.

## National information sharing initiatives

*What legislative or policy safeguards could be put in place in relation to disclosure of student personal information for the purposes of national initiatives or agreements?*

32. The QTU and IEUA-QNT call on the Queensland Government and the DoE to exercise caution in the long-pursued goal of national consistency and harmonisation of education policy across jurisdictions. Decades of attempted policy harmonisation has resulted in increased workload pressure on teachers and principals, with little benefit in student outcomes.
33. The QTU and IEUA-QNT reject the premise of the statement "Where possible, education-related information is shared at the national level in de-identified form, e.g. information provided for the purposes of informing federal funding" (p. 5). Rather, the Unions note the failure of successive state and federal governments to prevent the identification of schools, creation of league tables, and subsequent naming and shaming of school communities in the media.
34. The DoE's consultation paper continues, making the case that sharing data at a national level "can provide valuable insights about Queensland's schooling system and important next steps, and opportunities for Queensland to positively influence national priorities and action" (p. 5). Again, the Unions

reject the supposition in this statement. The supposition underpins the National Assessment Program and other federal initiatives that have promised to improve educational outcomes for more than a decade. We contend such federal initiatives have failed schools, the teaching profession, students, and their families.

## NAPLAN

35. The QTU and IEUA-QNT note that the DoE's *Data sharing and consent management* consultation paper asserts that the *Data Standards Manual* and *NAPLAN Online Data Extract Dictionary* obligate Queensland to disclose demographic information to Australian Curriculum, Assessment and Reporting Authority (ACARA) in relation to NAPLAN activities (p. 5).
36. The QTU and IEUA-QNT reject the notion that Queensland legislation can be dictated by ACARA's operational documents. School education is the constitutional responsibility of the states, and the Unions contend that Queensland should not amend legislation to suit the whim of the federal bureaucracy.
37. The QTU and IEUA-QNT urge the Queensland Government to ensure that the collection of any demographic information regarding gender is inclusive for all age cohorts.

## Unique Student Identifier (USI)

38. The QTU and IEUA-QNT note that the DoE's *Data sharing and consent management* consultation paper references the federal body of work that is being undertaken with regards to the Unique Student Identifier (USI) (p. 6). The Unions do not support amendments to the EGPA to accommodate work that is yet to be completed or on which the Queensland government has not engaged with stakeholders, including teacher unions. The Unions do not support sharing of personal data without clear limits on:
- (i) the type of data to be shared
  - (ii) where and how data will be stored
  - (iii) the length of time that data may be stored
  - (iv) the purpose for retrieving data
  - (v) personnel who can access the data.

## Online Formative Assessment Initiative (OFAI).

39. The QTU and IEUA-QNT do not support the OFAI. In state schools, the OFAI is a potential breach of an industrial agreement with the QTU and could lead to

a dispute. The OFAI is another reason that the Queensland Government and the DoE must exercise caution in negotiations with the federal government and other jurisdictions that pursue harmonisation of education policies.

### Potential amendments

40. The QTU and IEUA-QNT note that the DoE's *Data sharing and consent management* consultation paper states:

*Consideration is being given to amending the EGPA to remove doubt and enable collection, storage, use and disclosure of any personal student or parent information that may be required for national education information sharing initiatives or projects, on a case-by-case basis.*

(DoE, 2022, p. 6).

41. The QTU and IEUA-QNT further note that the potential amendments the consultation paper describes would mean the Queensland Government could negotiate changes in service delivery with the Commonwealth Government, (e.g. a renewed National School Reform Agreement).

42. The QTU and IEUA-QNT do not support the DoE's consideration of the proposed amendment of the EGPA. The Unions do not support removing protections of Queensland students, the teaching profession and school, in a manner that would require data to be provided to the Commonwealth, for NPIs that are described in the consultation paper as well as those not yet imagined.

43. The QTU and IEUA-QNT express alarm at the statement in the consultation paper that recognises the potential amendments:

*would also carry significant risk, effectively removing the state's power to manage the personal information of its students, with decision making power in practice given to national committees or the Commonwealth.*

(DoE, 2022, p. 7).

## Appendix A: Summary of QTU and IEUA-QNT responses to proposals to amend the EGPA

Proposal	QTU position	Comment
<i>Review process</i>		
Budget impact statement	Recommendation	The QTU and IEUA-QNT call on the Department of Education (DoE) to ensure a specific budget impact statement and a separate workload impact statement are provided in any future proposals arising from the review process, and that both statements are available to stakeholders.
Workload impact statement	Recommendation	
<i>Legislative references</i>		
s428	Recommendation	The QTU and IEUA-QNT call on the DoE to ensure that any amendments to the EGPA protect the demographic information of students, their teachers, and principals from being provided to third parties without informed consent, and from being provided in a manner that has the potential to cause harm to students, teachers, principals, school communities, and the teaching profession.
	Recommendation	The QTU and IEUA-QNT call on the DoE to consider data sharing and consent management between schools and school sectors.
<i>Data sharing</i>		
Consent for online services	In-principle support	<p>The QTU and IEUA-QNT do not support sharing of personal data without clear limits on: (i) the type of data to be shared, (ii) where and how data will be stored, (iii) the length of time that data may be stored, (iv) the purpose for retrieving data, and (v) personnel who can access the data.</p> <p>The QTU and IEUA-QNT believe that the chief executive power to approve service providers addresses consent for online services.</p>

		The QTU and IEUA-QNT do not support opt-out provisions.
<i>National information sharing initiatives</i>		
NAPLAN	Rejected	The QTU and IEUA-QNT do not support amending Queensland legislation to comply with operational documents of the federal bureaucracy.
	Recommendation	The QTU and IEUA-QNT urge the Queensland Government to ensure that the collection of any demographic information regarding gender is inclusive for all age cohorts.
Unique Student Identifier	In-principle support	The QTU and IEUA-QNT do not support sharing of personal data without clear limits on: (i) the type of data to be shared, (ii) where and how data will be stored, (iii) the length of time that data may be stored, (iv) the purpose for retrieving data, and (v) personnel who can access the data.
Online Formative Assessment Initiative	Not supported	The QTU and IEUA-QNT do not support the OFAI.
Potential amendments	Noting	The QTU and IEUA-QNT share the concerns of significant risk that are raised in the consultation paper and the Unions do not support the proposed amendments.