



**South
Australian
Association of
State
School
Organisations Inc.**

www.saasso.asn.au
Unit 2 124 Carrington Street
Adelaide SA 5000
Telephone 08 8223 2266



SAASSO is South Australia's peak parent body.

SAASSO is also the Governing Council Association, representing 90 per cent of public schools.

SAASSO holds concerns regarding the composition, agenda and operations of the Teacher's Registration Board, as it functions under the recent review of the Act by the Rann Government.

SAASSO concurs with the Act, that the Board must hold 'the welfare and best interests of children as its primary consideration in the performance of its functions'.

SAASSO understands that the Hon. J.A. Darley intends to progress the motion for an inquiry into the effectiveness of the Teachers Registration Board, introduced by the Hon. Nick Xenophon on September 26, 2007.

SAASSO supports this call for an independent inquiry and asks that the concerns of parents be addressed in any such inquiry.

This submission is comprised of 6 sections:

1. Composition of the Teachers Registration Board
2. Vagaries in the Act
3. Management and administration of the Board
4. Board focus
5. Issues of accountability
6. Conclusion / Recommendation

Please note, in parts of this submission, SAASSO poses questions and hypotheticals rather than fact; due to the lack of available information regarding the practices of the Board.

As representatives of South Australian parents – and parents ourselves – we are deeply concerned about the operations of the Board, designated with the welfare of our children as its primary consideration.

Section I: Composition of the Teachers Registration Board

The Act states, 'The Teachers Registration Board must have the welfare and best interests of children as its primary consideration in the performance of its functions'.

This primary objective is not reflected in the composition of the Board. The current composition more befits service to teacher union members and protecting industrial conditions, rather than professional standards.

The Act mandates that of the 16 person Board:

- Half must be teachers
- 7 of these teachers must be union members
- 2 must be employees of the State Government education department
- 1 must be an employee of the State Government Children's Services department
- 1 must be from the Catholic school association
- 1 must be from the Independent school association
- 1 must be a lawyer, appointed by the Minister
- 1 must be the chair, appointed by the Minister
- 1 must be employed by the universities, in the field of teacher education
- 1 must be a parent of a school student to represent the community interest, appointed by the Minister.

Please note, since the Act was reviewed, the 'parent' member has constantly been a second representative of the Catholic school sector – a public school parent has not been represented on the Teacher Registration Board since the Rann Government review*.

- On a Board responsible for the welfare of the state's children, to have only 1 of 16 members appointed to 'represent the community interest' is wholly insufficient; given that the parents of South Australia are entrusting their children's welfare to this Board.
- On a Board responsible for overseeing the conduct of teachers, to have at least half the members be teachers, is inappropriate.
- On a Board, in a country with voluntary unionism, to mandate that only union members are suitable to hold teacher positions is antiquated and relegates non-union teachers to a second-class standing.
- On a Board responsible for the independent investigation of breaches committed by DECS employees, to have the majority of members be DECS employees is unacceptable.
- On a Board responsible for independent enforcement of the Act, to have 11 members either in the employ of, or appointed by the government of the day is antithetical to its purpose.
- On a Board responsible for ensuring the welfare of children, for only 1 member to be a parent - is tokenism.

In addition to the disproportionate representation of some groups on the Board, other vital groups are ignored:

- Only 1 of 16 must be a parent of a student.
- 0 of 16 must be representatives of public school parents / students.
- 0 of 16 must be representatives of SAASSO – the state's peak parent body – compared to the 7 of 16 union representatives.
- 0 of 16 must be school principals.

*A SAASSO representative was recently appointed a Deputy Member, however, this conveys no right to attend meetings, participate in inquiries or move motions for inquiries. Nor is the deputy member privy to information regarding complaints, inquiries or outcomes.

Section 2: Vagaries Of The Act

The current Act contains little required process for the Board or the Registrar, imposes no real accountability on the Board or the Registrar and is vague in key areas of definition.

For ease of inspection, these issues will be dealt with in chronological order.

Part 1.3 - Interpretation

Item

There is a lack of definition around what constitutes 'disgraceful or improper conduct'.

Comment

It is left to the Board or Registrar – whether on an ad hoc basis, or through unpublished agreement - to determine what improper conduct is. SAASSO, parents, parliament and the South Australian community are unaware whether these 'definitions' are satisfactory.

Part 3.6.d – Functions of Teachers Registration Board

Item

A function of the Board is 'to confer and collaborate with ... other organisations and bodies and persons with respect to ... professional and other standards for teachers'.

Comment

Which bodies (other than unions and employers) must be conferred with and consulted concerning standards for teachers is not stipulated. As the peak parent body in South Australia, there is no process for conferring or collaborating with SAASSO. Nor is SAASSO aware of any process for conferring or collaborating with the parents of South Australia.

Part 3.6.e – Functions of Teachers Registration Board

Item

The Board is required to confer and collaborate with authorities in New Zealand.

Comment

The Board must share information with authorities in New Zealand, but not parents, parent associations, the public or the Parliament of South Australia.

Part 3.6.f – Functions of Teachers Registration Board

Item

The Board is required to keep 'professional standards for teachers ... under review...'

Comment

There is no stipulation as to how or when this ongoing 'review' process must be conducted. Nor is there any requirement for scrutiny of either the review process or outcomes.

Part 3.14.8 – Procedures of Teachers Registration Board

Item

‘Subject to the Act, the Teachers Registration Board may determine its own procedures’.

Comment

Other than basic meeting procedures, there is little requirement around the activities of the Board. There is also no requirement for the Board’s activities to be accountable to, or the subject of scrutiny by, anyone. Nor is there any requirement for anyone external to the Board to even be informed of the procedures of the Board.

Part 3.15.3 – Registrar of Teachers Registration Board

Item

The Registrar must be a Public Service Employee.

Comment

In addition to most of the members of the Board the Registrar is also a representative of the government.

Part 3.15.4 – Registrar of Teachers Registration Board

Item

The Registrar is responsible for managing all staff and resources and giving effect to the policies and decisions of the Board.

Comment

There is a distinct lack of clarity as to the authority of the Registrar (although subsequent sections of the Act afford the Registrar the authority to take action, or not, on complaints made). It seems that much of the Registrar’s authority is not subject to the will or even scrutiny of the Board. It is unclear whether anyone reviews the performance of the Registrar or would deal with complaints made against the Registrar. In key areas of the Act, the Registrar is afforded the authority to act completely independently; accountable to nobody.

Part 3.17.2 - Delegation

Item

The Board may call a committee to inquire into possible breaches by teachers. The only required members of such a committee are a legal practitioner and a teacher.

Comment

No parent or representative of the community interest is required to inquire into an offence committed by a teacher.

Part 3.19 – Annual Report

Item

The Teachers Registration Board is required to submit an annual report, which must be tabled in both Houses of Parliament.

Comment

There is no requirement for the annual report to cover the processes and activities of the Board, or to report on any revision of standards or complaints received, inquiries held, or the outcomes of any investigations.

Part 3 - Overall comment

- The Act provides much in the way of requirement for the Board to work collaboratively with the teaching profession, but nothing in the way of working with or being accountable to parents, parliament, or the people of South Australia.
- There is little required process or procedure and no requirement for internally developed procedures to be scrutinised by anyone external.
- The Registrar – appointed by the Minister – wields considerable independent authority and is not accountable to no one.

Part 5.28.2 – Register

Item

The Board is required to keep a register of teachers, including records of any offences and action taken against teachers.

Comment

There is no requirement for this register, or any report concerning teachers guilty of offences, to be available to anyone.

Part 5.28.5 Register

Item

‘The Registrar may remove or correct an entry in the register as required without giving notice to any person’.

Comment

The Registrar can simply change the record of any teacher, without advising or justifying this act to anyone.

Part 5 – Overall comment

- The power and accountability of the Registrar is again unclear.
- What is the purpose of a register that nobody is permitted to see and that can be altered, without scrutiny?

Part 7.33.1 – Cause for disciplinary action

Item

Unprofessional conduct and not being a fit and proper person are cited as grounds for disciplinary action against a teacher.

Comment

The definition for these breaches is vague and no further clarification is offered. It is apparently up to the Board or Registrar to determine what constitutes unprofessional conduct or being and unfit person. There is no requirement of the Board or Registrar to offer definitions of these, to consult in order to determine these definitions, or to advise by what criteria or process these definitions were conceived.

Part 7.34.1 – Registrar may conduct investigation

Item

The Registrar ‘may’ conduct an investigation to determine whether there is basis to make a complaint to the Board.

Comment

There is no requirement that the Registrar ‘must’ investigate any issue. As the primary conduit to the Board, this places enormous power in the hands of this one person. There is no stipulation regarding what form an investigation or how it must be conducted. There is apparently no requirement for the Registrar to make any report or inform anyone as to complaints they have arbitrarily decided not to investigate, or have investigated but decided not to refer to the Board.

It should be noted that there is no mention as to the experience or qualifications required of the Registrar to satisfy scrutiny that they are skilled to conduct investigations.

Part 7.35.1 – Inquiries and disciplinary action

Item

The Teachers Registration Board may ... hold an inquiry to determine whether conduct of a teacher constitutes proper cause for disciplinary action.

Comment

There is no process stipulated for determining how an inquiry must be conducted or for the Board to provide information regarding its own internal process.

There are no offences requiring mandatory action or investigation. Regardless of the offence, the Board (or majority of it) has the authority to take no action against the offender.

There is no mention of how, or if, the Board or Registrar may receive complaints from a parent, Members of Parliament or the South Australian community, or any requirement for the Board or Registrar to act on any such complaints.

Part 7.40 – Notification by Registrar of inquiry and outcome

Item

The Registrar is required to inform certain people and groups of the commencement of an inquiry and the outcome of it.

Comment

The Catholic and Independent Associations, Chief Executive of DECS and regulatory authorities in New Zealand must be informed – while the parents, parliament and people of our own state are not to be informed.

Part 7 – Overall comment

- The lack of requirement around inquiries and investigation of complaints against teachers is most concerning. What constitutes an offence, and if and how any complaint will be investigated, is at the will of the Board and Registrar.
- The Registrar again is accountable to nobody and may not even inform the Board that a complaint has been made.
- There is no requirement for parents, parliament, or people of South Australia to know if any complaints are ever investigated.

Part 8.42.2 – Natural justice and right to be heard and call evidence

Item

The Act enumerates rights for teachers under inquiry.

Comment

There is no mention of rights of complainants or victims of offences to be heard or advised as to the outcome of any complaint made.

Part 8.45 – Principles governing proceedings

Item

The Board:

- Is not bound by any rules of evidence.
- May, by its own motion, hold any proceedings in private.
- May develop its own procedures.

Comment

The Board is not required to adhere to any rules or follow any accepted procedures. It may conduct all proceedings in secret (with no justification for why) and may develop all its own procedures. Additional to this complete lack of accountability, there is no requirement of the Board to inform anyone as to which rules and processes it does employ.

Part 9.49.3 – Appeals

Item

Persons affected by a decision may appeal that decision.

Comment

It is unclear whether 'person' includes victims and complainants or simply affords right of appeal to teachers.

Part 10.51.4 – Arrangements between Teachers Registration Board, DPP, and Commissioner of Police for reporting of offences

Item

The Board, DPP and Commissioner of Police must annually review processes to ensure continued effectiveness of the arrangements between them.

Comment

There is no requirement for either the review or the outcome of the review to be reported to anyone. Again, parents, parliament and the people of South Australia are excluded from scrutinising the processes of the Teachers Registration Board.

Part 10.52.1 – Notification of offences to employer etc

Item

If the Registrar learns that a teacher has been charged with or convicted of an offence, the Register is required to inform the teacher's employer (provided that employer is a teacher), The Chief Executives of DECS and the Catholic and Independent School Associations, if the Registrar believes the offence raises serious issues.

Comment

There is no requirement for parents, parliament or the people of South Australia to be informed of criminal offences committed by registered teachers. Again, it is at the arbitrary discretion of the Registrar whether offences will be reported to anyone.

Section 3: Management and Administration of the Board

In section 2, a number of issues contained in the Act were listed. Most of these related to vague or non-existent requirements of the Board in regard to its processes.

While the Act is lacking in this regard, there is no prohibition against the Board holding itself accountable to the South Australian community. This section details where the Board and Registrar have failed to do this.

While we assume (or hope) that the Board does have formalised procedures, rules and definitions, we cannot say for certain; for if the Board and Registrar have developed these, they have decided not to subject them to the scrutiny of parents, parliament or the South Australian community.

The following relate to areas of operation - information about which - the Board has opted not to make publicly available:

1. Definitions of what constitutes improper conduct on the part of a teacher (Part 1.3)
2. Process for conferring and collaborating with other organisations and persons with respect to standards for teachers (Part 3.6.d), as well as the outcomes of any such collaboration
3. Process for the review of teaching standards (Part 3.6.f)
4. Procedures for the Teachers Registration Board (Part 3.14.8)
5. Role specification, delegated authority and accountability of the Registrar (Part 3.15.4)
6. Detailed reporting of the activities of the Board, and meaningful data pertaining to complaints, inquiries and outcomes
7. Definitions as to what constitutes 'unprofessional conduct and not being a fit and proper person' (7.33.1)
8. Rules concerning when and under what circumstances the Registrar will conduct investigations (7.34.1)
9. Process for how the Board will conduct investigations or which offences will result in investigation (Part 7.35.1)
10. Process or information for how and if parents and members of the public can make complaints to the Board (Part 7.35.1)
11. Rules determining how the Board's proceedings will be governed (Part 8.45)

Section 4: Board focus

The Act stipulates that ‘The Teachers Registration Board must have the welfare and best interests of children as its primary consideration in the performance of its functions’.

The Teachers Registration Board is not meant to be an extension of teacher unions, a professional association for teachers, or an administrative arm of the State Government. Its function is to protect the children of South Australia and should, therefore, be accountable to the parents, parliament and people of South Australia.

The limited information published by the Board and available on their website, however, suggests a primary focus on professional development for teachers, promotion of the teaching profession and other educational matters (such as physics and physical education curriculum and how meditation can aid learning).

However, SAASSO is aware of no documentation informing the parents or public of South Australia of their rights in terms of offences committed by teachers.

On the Teachers Registration Board website there is no information for parents or victims of offences committed by teachers, or resources for such affected people. There is, however, detailed information on World Teachers Day.

There is detailed information on post-graduate courses for teachers, but no information for concerned parents as to what constitutes ‘improper conduct’.

Numerous online forms exist for teachers to aid them in their registration process, but no facility for parents or member of the public to lodge complaints or make enquiries.

Most concerning is the Home Page, which lists the functions of the Board as they pertain to teachers (under section 3.6 of the Act), but omits the primary function of the Board (under section 7) which states; ‘The Teachers Registration Board must have the welfare and best interests of children as its primary consideration in the performance of its functions.’

The Teachers Registration Board website appears clearly focussed as a service to teachers and not a service to children or the South Australian community.

Section 5: Issues of accountability

In sections 2 and 3, numerous issues concerning the lack of external scrutiny and accountability were cited. While a measure of common-sense confidentiality is required, the Act 'does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates'.

Unfortunately, almost all aspects of process, review and procedure (not specifically required to be made public by the Act) are kept secret by the Board and the Registrar. Section 3 listed those areas where the Board has either no process or definition, or has opted not to subject them to scrutiny.

In fact, the only way SAASSO or any parent, Member of Parliament or the community would know details of complaints against teachers, action taken, what patterns exist or whether incidents are on the increase or decline, would be to sue under Freedom of Information, or to read about it in 'The Advertiser'; which sued under Freedom of Information in 2007.

Section 6: Conclusion / Recommendations

Many aspects of the operation of the Teachers Registration Board are of concern to SAASSO:

- The composition of the Board is clearly disproportionate in its representation. The current composition requirements are more disposed to serve the interest of the teacher unions rather than 'the welfare and best interests of children'.
- At least 22 clauses in the Act are either too vague or lacking in suitable rigour to guarantee effective and efficient functioning of the Board.
- Beyond the shortcomings of the Act, the current Board and Registrar have either developed little in the way of process and review or have opted not to submit them to scrutiny.
- There is a lack of accountability of the Registrar and the Board to the parents, parliament and people of South Australia – they are literally more accountable to the New Zealand association.
- From the Board's published materials and public website, there exists a clear focus on serving the professional development needs of teachers over informing and engaging South Australian parents. That there is a need for a professional association for teachers is not argued, but the Teachers Registration Board should not be that association.
- SAASSO is deeply concerned about disturbing information in the Hon. N. Xenophon's motion relating to incidents at a school in Mount Gambier and further revelations in 'The Advertiser' in November 2007. In this article, it was stated that an allegation of misconduct against teachers was made every week of the school year. In 2007, this resulted in only 2 dismissals. Additionally, 6 teachers were formally warned but returned to their classrooms. Meanwhile, teachers who had developed 'overly-familiar' relationships with children, had physically handled children or had been arrested for disorderly behaviour had been 'counselled'. All this occurred with no reporting to parents, the parents association, parliament, or the people of South Australia. Additionally, none of the aforementioned have any input or knowledge of, how the Teachers Registration Board conducts its proceedings.

With these issues in mind, SAASSO calls on Parliament to:

- Conduct an investigation into the operations of the Teachers Registration Board
- Review the Act in terms of the composition of the Board, definitions and rules to ensure an effective Board, focused on the welfare of children
- Review resourcing and develop a proper management regime (particularly concerning accountability), which more appropriately balances the welfare and best interests of children and teachers alike.