

Australasian Teacher Regulatory Authorities

Submission: WA Teacher Registration Act Review

CALL FOR SUBMISSIONS: REVIEW OF TEACHER REGISTRATION LEGISLATION
Sections 130 WESTERN AUSTRALIAN'S *Teacher Registration Act 2012*

This is a submission on behalf of the Australasian Teacher Regulatory Authorities (ATRA) to the review of the *Teacher Registration Act 2012* (WA), prepared by Dr Peter Lind the current Deputy Chair of ATRA.

The submission is formatted against the key questions identified in Appendix 1 of the *Information Paper and the Call for Submissions*.

Who must be registered

1. Widening the need for registration from schools to encompass early childhood teachers is in line with all ATRA members and addresses the requirements of the regulatory framework for education and care services in Australia of the National Law and the National Regulations.

Full and provisional registration

2. The categories of "Full Registration (FR)" and "Provisional Registration (PR)" align with all of the ATRA members, as well as the Australian Professional Standards for Teachers (APST) at the Graduate and Proficient levels.
3. The English language proficiency requirements also align with ATRA members and help to maintain national consistency particularly in light of the Mutual Recognition Act.

Limited registration

4. Most ATRA members also have a category for those employed in teaching positions that do not have a teaching qualification. For example in South Australia it is termed a "Special Authorisation" and, in Victoria, it is termed "Permission to Teach". In WA's case it is termed "Limited Registration" and allows an applicant to teach in a specific context for a fixed period of time.

Non-practising registration

5. Western Australia's category of "Non-Practising Registration" is not shared by all ATRA members, although New Zealand (NZ) does have a category "Subject to Confirmation" and Victoria has a non-practising registration category. It's defined in the Education and Training Reform Act 2006. The NZ example does serve a similar purpose, which is for teachers not intending to teach for a period of time or for teachers intending to teach in an educational venue other than a school or early childhood service, who meet the requirements for the grant of PR or FR except for WA's "professional standards" requirements.
6. In WA's case, the category of "Non-Practising Registration" poses an incongruity, because teachers who hold "Non-Practising Registration", when they commence or return to teaching continue to hold the title until they can demonstrate proficiency.
7. In South Australia, teachers who have not met the "professional standards" requirements have the fact that they have not met the "professional practice" requirement noted on their Certificate of Registration, but are still able to maintain FR with this condition.
8. Certainly ATRA would encourage WA to address this incongruity.

Fitness and propriety

9. Feedback is sought on whether the “fit and proper” requirements should include a requirement to hold a “working with children assessment” (WWC) notice as a prerequisite for registration. In most states and territories this is now a mandatory requirement for any individual seeking to work with children and young people. It is assessed by a separate dedicated statutory body from the professional regulators. If teacher registration is a requirement for those working in schools and early childhood services, it would be difficult to argue that teachers should be exempt a WWC check.
10. However, a key requirement of the WA legislation is to ensure teachers are a ‘fit and proper person’ to be a registered teacher. The professional regulator therefore must be able to take into account criminal history and conduct to determine good character which would not necessarily be considered as part of the proposed WWC. For instance, it is critical to consider information related to dishonesty, drug use, unacceptable behavioural offences and other indicators of unprofessional conduct.
11. Further, in WA currently it is not a requirement for an applicant for “limited registration” to have the clearance of a fitness and propriety check prior to commencing employment. From a child protection perspective, this is a serious risk and ATRA would advocate that any applicant for “limited registration” should require a fitness and propriety check prior to beginning a teaching role.

Ineligibility for Registration

12. The circumstances listed in section 27 (2)(a)-(f) of the Teacher Registration Act 2012 align to those of most other ATRA members.
13. One additional circumstance could be if an applicant has fraudulently included information in their application. This broadens (2)(e): “a qualification that enabled the teacher to gain registration was forged or fraudulently obtained”.

Renewal of registration

14. Most ATRA members have similar requirements for the renewal of FR. These include:
 - professional engagement (ie days working as a teacher)
 - professional learning (ie hours of professional learning activities related to the APST)
 - regular fitness and propriety clearances
15. Beyond these requirements, there needs to be acknowledgment of the diverse nature of the teaching workforce and the different modes under which teachers are employed. These variables need to be carefully considered prior to any additional requirements being imposed.

Disciplinary matters

16. The Board needs to be able to fully exercise its **investigative function**. To achieve this, there need to be consequences for failing to comply with the Board’s requests for information relating to determining the fitness and propriety of an individual, or in its ability to carry out an investigation related to a disciplinary matter. This may mean being able to impose a penalty if a person or body fails, without reasonable excuse, to comply with the requirements of the section. (See, for example, s 34 of the *Teacher Registration and Standards Act 2004* (South Australia)).

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17. The threshold for the Board to be able to investigate a disciplinary matter needs to be carefully considered. ATRA would argue that a teacher has engaging in serious misconduct determines a disciplinary matter that the Board should investigate.
 18. The Board has 'emergency powers' pursuant to Section 59 of the *Teacher Registration Act 2012* to make interim disciplinary orders (s 59 and s 60). Under section 59, it would be helpful if the Board had the power to issue an interim disciplinary order in circumstances where the teacher has not been re-employed as a teacher to ensure that the matter has been initially dealt with particularly if they seek employment inter-state. This hinges on section 42 of the Act because it is the primary means by which notices are provided to the Board that might give rise to a complaint about serious misconduct or serious incompetence by a teacher.
 19. ATRA wishes to minimise such risks as
 - a registered teacher who is subject to allegations of serious misconduct and immediately resigns in circumstances where the employer is yet to commence a formal investigation
 - the employer commences an investigation into a serious misconduct allegation and the teacher incidentally resigns, retires or reaches an end of contract for employment that is not as a result of the investigation
 - a teacher leaves an educational venue prior to the misconduct being detected and the employer later investigates and uncovers the issue- the investigation did not prompt the departure of the teacher and there is no technical requirement to notify the Board.
 20. ATRA strongly supports any process to help prevent the possible movement of teachers who may be the subject of serious disciplinary matters by moving employment inter-state.

Impairment

21. With an ageing teaching population and the complex demands of the work of teachers, dealing with issues of impairment or incapacity are critical in maintaining an effective teaching workforce. ATRA strongly promotes the importance of employers or teachers notifying regulators, such as the Board, of impairment matters. It should be a requirement for employers to report serious impairment affecting the behaviour or competence of a teacher.

Accreditation

22. Most ATRA members have the function of accrediting initial teacher education (ITE) programs. In a federated model, AITSL provides guidance in the development of national standards and procedures for the accreditation of ITE programs, but the power of accrediting ITE programs sits with the states and territories and their statutory authority.
23. Therefore it is in this context that the development of an accreditation scheme in Western Australia is a matter for the Board. As such, it is recommended that in terms of the Board's function, the current references to facilitating and assisting in the establishment of an accreditation scheme that may apply throughout Australia should be reviewed to ensure that there is no confusion or uncertainty concerning the Board's role.