



Education Laws for the Future

A Submission by the

**Youth Affairs Network
of Queensland**

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Introduction

The Youth Affairs Network of Queensland Inc. (YANQ) welcomes the opportunity to provide input into the proposed changes to the *Education (General Provisions) Act 1989* that are outlined in the *Education Laws for the Future (ELF)* consultation paper.

This submission responds to a number of questions raised in the ELF paper, but also responds to issues that the paper has not explicitly sought feedback on. YANQ's submission is divided into sections corresponding to those in the ELF paper, however prior to this a *General Feedback* section has been included to cover more general aspects of the proposals.

About YANQ

The Youth Affairs Network of Queensland Inc (YANQ) is the peak community youth affairs organisation in Queensland. YANQ advocates on behalf of young people in Queensland, especially disadvantaged young people, to government and the community. The interests and well being of young people across the state are promoted by YANQ in the following ways:

- disseminating information to members, the youth sector, and the broader community
- undertaking campaigns and lobbying
- making representations to government and other influential bodies
- resourcing regional and issues-based networks
- consulting and liaising with members and the field
- linking with key state and national bodies
- initiating projects
- hosting forums and conferences
- input into policy development
- enhancing the professional development of the youth sector

General Feedback

YANQ welcomes the opportunity that has been provided to comment on the proposed changes to the Education Laws. In particular, we commend the Department of Education and the Arts for allowing 5 months (a relatively long period of time) for the consultation process.

However, YANQ also urges the Government to continue the consultation process, in particular by providing more information regarding the detailed content of the proposed legislation, when this becomes available. Whilst the broad scope of the current consultation paper made the issues more accessible to a broader cross-section of Queenslanders, the lack of detail has made it more difficult to form an opinion on some issues. Ultimately, being provided with the details of the legislation will allow organisations such as YANQ to more fully determine whether or not the proposed changes are in the interests of all young people in Queensland.

Proposed Guiding Principles

Page 6 of the ELF consultation paper proposes guiding principles for the Education Laws. YANQ supports these principles, however suggests amending the principle that states:

“... high quality education in all Queensland schools ... is achieved by... treating parents with openness and fairness, and having regard to the principles of natural justice in managing relationships with students and their parents.”

There is no similar principle that explicitly states that high quality education also involves treating young people with openness and fairness. YANQ suggests amending the principle to read:

... treating students and parents with openness and fairness, and having regard to the principles of natural justice in managing relationships with students and their parents.”

Attending School – Parents' Responsibilities

Increasing Fines for Truancy

Currently parents who do not send their child to school face a fine of \$375 for a first offence, and \$750 for further offences. It is proposed that these fines need to be doubled to reflect the growing importance of education to future employment.

YANQ argues that using fines as a tool to coerce parents to send their children to school is counterproductive and will only exacerbate the problems that lead to their children's truancy in the first place.

First, research suggests that imposing penalties on parents whose children are truant from school does nothing to improve truancy rates. Zhang (2003) studied school districts in a number of areas in the United Kingdom and Wales in order to determine the relationship between increases or reductions in school attendance rates and prosecutions of parents whose children were truant. Zhang found no evidence that more parental prosecution would bring about improvement in school attendance. Specifically Zhang found no link between:

- the number of prosecutions and the levels of school absenteeism; or
- the number of court cases against parents and the improvement or reduction in school attendance rates.

Second, rates of school attendance are influenced by many factors beyond parents control. Recent research conducted for Education Queensland suggested that:

“... patterns of student retention are based on a complex interplay between a range of factors including social and demographic (e.g. gender, achievement, student aspirations and motivations, family SES, ethnicity, indigenous status, health and disability, homelessness), regional and economic (e.g. urban, rural or remote, youth labour market, unemployment, part-time employment, industry structure, community links), school policies and context (e.g. sector, school quality, teacher quality, pedagogical effectiveness, school resourcing, school organisation) and the policy environment (e.g. system, state, and commonwealth policies, curriculum and qualification framework, income support)” (Lamb, Walstab, Teese, Vickers & Rumberger, 2004).

In other research by Zhang (2002), it was found that truancy was closely correlated with poverty. Similarly, the 1996 Commonwealth Inquiry into truancy and exclusion from school found that “there is a significant relationship between early school leaving and family socioeconomic disadvantage” (House of Representatives Standing Committee on Employment, Education and Training, 1996). These findings mirror the anecdotal evidence provided to YANQ by its members who suggest that young people who are disengaged from school are mostly from families with low incomes and/or who struggle to obtain stable accommodation. Poverty, and the range of factors above are largely beyond any single family's control, and require broader social change within schools and communities.

Boredom has also been identified as a factor that contributes to early school leaving (Cottone, 2004; House of Representatives Standing Committee on Employment, Education and Training, 1996). The reasons for boredom can vary, ranging from difficulty understanding the curriculum, to finding subjects too easy or simply uninteresting. The following comment from a young Maori/Cook Islander student interviewed as part of Cottone's (2004) research highlights this point:

“I loved going to school in New Zealand, but ever since I came to Australia I had difficulties with understanding English so I started wagging school” (p. 7).

Imposing a fine on this particular student's family, would do nothing to solve the fundamental problem the student has identified. In this example, resources would better be spent on providing more support to this student in the form of (for example) ESL tuition.

For all these reasons above, imposing fines on families who face multiple social and economic barriers is grossly unfair. For families who face financial difficulties, fines will only further entrench these problems in their lives. Furthermore criminalising non-attendance at school can only serve to further erode any trust that families with disengaged children have in the education system.

Finally, the use of flat-rate fines to coerce school attendance is grossly unfair as the penalty effectively increases as income decreases. For instance the current fine for a first offence of non-attendance (\$375) represents 87% of a single parent's social security income for a fortnight. Under the proposals to increase the fines, a first offence represents 174% of a single parent's fortnightly income from social security. On the other hand, a current first-offence fine imposed on a parent earning \$100,000 per year, represents just 10% of that parent's fortnightly (before tax) income. Under the proposed increases, the first-offence fine is just 20% of that parent's fortnightly income – much less than the 174% imposed on single parents relying on social security.

With the points above in mind, YANQ makes the following recommendations:

- That fines are not imposed on parents or young people who fail to attend school.
- That exemptions for school attendance take into account cultural diversity and cultural obligations of young people.
- That the Queensland Government advocate to the Federal Government for changes to social security policy that will remove poverty traps for low-income families.
- That the Queensland Government increase their investment in early intervention and prevention services as a strategy to reduce social isolation of families and young people.
- That Education Queensland encourage the development of alternative methods of schooling, both within and outside the state system as a strategy to increase the range of options available to students.

Parents Responsibility for Student Employment

Page 7 of the ELF consultation paper proposes holding parents responsible (via fines) for ensuring that children are not employed during school hours.

YANQ does not agree with this position, but instead argues that employers need to take responsibility for ensuring that their staff are not placed in working conditions that will have a detrimental impact on their schooling.

Evidence presented by the Young Workers Advisory Service (YWAS, 2004) to the recent Queensland Review of Child Labour makes it clear that some young people in casual employment are under great pressure to work hours that negatively impact on their schooling. Anecdotal evidence provided to YANQ through its members also supports evidence provided by YWAS that some young people in casual employment effectively face dismissal (ie not being offered any more shifts) when they refuse to take shifts that employers offer them. Under this sort of pressure, young people are more likely to accept the shift, regardless of its impact on their schooling.

The Education & Training Reforms for the Future may enable some young people to more easily combine work and study. The process through which this is negotiated with young people (SET planning) could also be used to involve employers and ensure that they are aware of and able to plan for and fairly accommodate the academic requirements of students.

This process will not always work and sanctions must be imposed on employers who pressure young people to accept shifts that will be detrimental to their schooling. YANQ supports the recommendations that YWAS made to the *Queensland Review of Child Labour* in 2004. The recommendations most relevant in this context are as follows:

- Compulsory registration (with a certificate displayed in the workplace) of employers of young people under 18, and the requirement that employers provide employees under 18 with a written contract of employment, outlining conditions and entitlements, signed by the young person and their parent/guardian.
- Working hours for children limited to twelve hours per week during school terms, and 35 hours per week during holiday periods, or other suitable breakdown of hours that recognises study commitments and other potential conflicts of longer working hours, and which would be an acceptable community standard¹.
- The ETRF Legislation reviewed, and adequate resources dedicated to identification, support and monitoring of the employment of young people, 17 and under, who come within the scope of the ETRF regulations, and who seek exemptions from education or training because they participate in employment for 25 hours a week or more. (YWAS 2004, p. 20).

Another aspect of this issue is the adequacy of social security payments to students and families. If social security payments for both students and parents (eg Newstart) were increased to (at least) poverty line rates, the pressure on many students to work long hours would be reduced. For this reason, YANQ urges the Queensland Government to advocate federally for an increase in social security payments as a strategy to ensure that all young people are financially secure and better able to take up educational opportunities.

¹ The student's SET Plan could be used as a guide here. Thus for each individual student, the contract of employment with an employer would need to be compatible with the commitments a student has made within their SET Plan.

Powers to Refuse Enrolment

Pages 13-14 of the ELF consultation paper propose allowing schools to refuse enrolments when:

- a school is at capacity and the student seeking enrolment lives outside of the school's catchment area;
- a student poses a significant and unacceptable risk to a school. In this instance, it is proposed that decisions be made by the Deputy Director General, with an appeal allowed to the Director General;
- a student poses a significant and unacceptable risk to a number or all schools. In this case, the decision maker would be the Director General of Education Queensland, with an external appeals mechanism via the Magistrates Court.

YANQ has a number of concerns with these proposals. Our concerns relate in particular to proposed appeals process and the definition of 'significant or unacceptable risk'.

Before discussing these, YANQ would like to endorse the proposal that schools must accept students from a local catchment area. Anecdotal evidence provided to YANQ indicates that some state schools are effectively 'in competition' with other schools for high achieving students, and often 'recruit' these students from outside their catchment area. The proposal to ensure that students cannot be refused enrolment to a school in their area because the school is full will help to ensure that local students are given priority.

The ELF consultation paper does not provide any examples or detail around what a school or schools would consider "significant or unacceptable risk". Guidelines must be developed that clarify this for schools, students and parents.

Our concerns regarding the appeals process for refusal of enrolments are dealt with below, in the section dealing with exclusions and suspensions.

Avenues of Appeal for Suspensions, Exclusions and Cancellations

The ELF consultation paper outlines the grounds for suspensions, exclusions and cancellations of enrolment and the appeal mechanisms available to students who are subject to these decisions. In particular the paper proposes that:

- where a student's enrolment is refused or they are excluded from all schools (or a number of schools in the case of refused enrolment), students will be able to appeal the decision to the Magistrates Court. Decisions to exclude or refuse enrolment from one school can be appealed only internally to the Director General of EQ.

YANQ is concerned that these proposals are not in line with principles of natural justice. We also argue that, in the case of external appeals, that the Children's Services Tribunal is a more appropriate venue than the Magistrates Court.

Whether a student is excluded or refused enrolment from one school, or a number of schools the potential impact on their future education and employment opportunities is significant. Given the potential impact, YANQ argues that students and their families should have the right to an external and independent appeals process.

Allowing students that are excluded from one school to appeal the decision to the Director General is not in line with the principles of natural justice. In this case the Director General is being asked to review a decision by a close colleague² within his/her own organisation. One of the fundamental principles of natural justice is that no person can judge their own case³. Clearly then, reviews of all exclusion/refusal decisions must be external to the Department. This is certainly the case if, as proposed on page 6 of the consultation paper, the legislation is to include the principle of “having regard to the principles of natural justice” when dealing with students and their families.

Finally, YANQ argues that the Children's Services Tribunal (CST) is the best option for hearing appeals against decisions to refuse enrolment or exclude students. Unlike the Magistrates Court, the CST is a child focused court. Also, it is unclear whether the Magistrates Court will have the power to overturn decisions, or if it will refer decisions back on grounds of process. The CST on the other hand is accustomed to reviewing children's services decision on grounds of fact or process.

Access to other Programs for Excluded Students.

Under the proposed changes to the Education Laws, EQ will, at most, be required to notify a student that is excluded from all schools of their alternative educational options. There will be no obligation for the Department to (for instance) support the student and their family to enrol in another school or in an alternative education facility.

YANQ is concerned that this proposal will allow Education Queensland (EQ) to effectively wipe its hands of some of the most disadvantaged and challenging young people. 'Notification' in this instance may be little more than a letter.

YANQ argues that the Government, must make every effort to ensure that all students excluded from schools are made aware of alternative options and provided with practical support to access these alternatives. The type and level of support offered will vary in each case and thus YANQ would urge schools to work closely with local community youth services, including, but not limited to Youth Support Coordinators, to support the reengagement of excluded students.

Fees for Overseas Students

Page 23 of the ELF consultation paper proposes retaining the Minister's power to charge fees to overseas students, but to enable the Minister to waive or reduce fees for students that have been granted a visa on humanitarian grounds.

YANQ argues that students holding humanitarian visas should have their fees for public education automatically waived, rather than requiring a special decision from the Minister for Education.

² It is proposed that decisions to exclude students from one school will be made by a Deputy Director General.

³ Taken from the latin phrase, “nemo iudex in parte sua”. Translated as no person can judge a case in which he or she is party.

Guidelines for Voluntary Contributions

Page 24 of the consultation paper proposes to allow schools to seek voluntary contributions, but to develop guidelines that will set the parameters and outline what can be sought. It also proposes to guarantee that the guidelines will ensure that students cannot be educationally disadvantaged if their families do not make voluntary contributions. YANQ broadly agrees with these proposals, but would like to see more detail.

Through its membership, YANQ has been told of an instance where a school only issued student cards to students whose families had made 'voluntary' contributions. Clearly in this instance, the contributions made by families are not 'voluntary' at all, but involve a degree of coercion from the school. In this particular example, those students from families that did not make contributions were also educationally disadvantaged because without a student card they were unable to access library or computer resources. Students without student cards also face the burden of being 'stigmatised' or ridiculed by their peers, which can indirectly lead to poor educational outcomes.

To avoid situations such as these, YANQ proposes that any guidelines must clearly state that contributions must be voluntary and that schools must:

- keep details of contributions confidential;
- not withdraw services or opportunities (eg excursions) from students whose family have not made contributions;
- must not draw attention, either explicitly or by omission (eg of student cards), to students whose family have not made contributions.

Including these guidelines as a minimum will help to ensure that students are not educationally disadvantaged, either directly or indirectly through stigmatisation or bullying, when their families do not make voluntary contributions to schools.

Accessing Distance Education by Choice

The ELF consultation paper proposes that the new Education Laws will allow Schools of Distance Education (SDEs) to charge for any services above the 'base' level that they provide to students enrolled in SDEs by choice.

It is proposed that the full level of service will still be provided to students who have "severely limited options" for accessing education service providers other than SDEs. How the new laws will define "severely limited options" (other than geographical isolation or serious medical condition) is unclear.

Without this information it is difficult for YANQ to determine the extent to which the proposals will benefit or disadvantage young people, particularly those who are disengaged (to varying degrees) from the mainstream (geographically based) school system. Therefore, further consultation should be undertaken that provides more detail on how EQ proposes to define "severely limited options". This consultation needs to be undertaken with young people, parents, teachers, social and youth workers and others that are involved in some way with SDEs.

Having said that, YANQ would like to make a number of points about the proposal to provide a basic level of service to students who do not have 'severely limited options' other than a SDE.

YANQ is concerned that this proposal will significantly disadvantage those students that are accessing SDEs because :

- they have been excluded or refused enrolment in another school, and their only other educational options are private fee-charging schools;
- they attend a flexible learning service (and through this are enrolled in an SDE) and find the holistic support offered enables them to remain engaged in education.

In the former case YANQ argues that the full SDE service must be offered, without charge, to students:

- whose only other option (that provides the full curriculum) is via a private school that charges fees; and
- whose family, or (in the case of independent students) the student, is unable or unwilling to pay the fees or the private school/s are unwilling to waive/reduce their fees.

The situation of students enrolled in flexible learning services (FLSs) is more complex. Clearly Education Queensland is concerned that SDEs are being 'stretched' and providing services to a section of the community that SDEs were not originally designed for – i.e. those who are not geographically isolated and who do not have a medical condition that prevents them from attending a mainstream school. A significant percentage of those enrolled in SDEs and who are not geographically isolated and who do not suffer from severe medical conditions are young people accessing flexible education services.

The reasons that young people use the services of FLSs are complex and differ for each young person. In a recent survey of flexible learning services conducted by the Department of Education and the Arts, the issues faced by young in these services included:

- poor literacy and numeracy skills
- problems conforming with behaviour standards
- history of absences and exclusions from school
- generational history of early school leaving
- engaging in substance abuse
- family conflict / lack of family support
- generational history of unemployment
- disability
- pregnancy/parenting
- negative experiences at school
- homelessness / high mobility
- mental health issues
- contact with juvenile justice system
- difficulties with school expenses

Presently, it is hoped that the suite of legislation, policy and programs that form the Education and Training Reforms for the Future will make it easier for young people facing issues such as those

above to re-engage or maintain their connection with the mainstream education system. This *may* result (over time) in fewer young people using SDEs (via flexible learning services) to maintain their involvement in education.

However, these 'hopes' are yet to be realised and it will likely take many years (perhaps 15 or more), before the full impact of the reforms will be felt. Furthermore, it is unrealistic to expect that when the ETRF reforms are fully embedded within the system, that Queensland will no longer need alternatives such as flexible learning services. Indeed one of the clear messages from the survey of these services was that

“young people need a range of re-entry points into the education system if they are at risk or have disengaged. Those services need to be customised to local needs and circumstances, and need to have strong community support.” (p. 7)

It is important that flexible learning and other services that provide services for re-engaging, or maintaining an education connection for at risk young people are maintained during the ETRF implementation phase. If existing services and opportunities (such as full service from SDEs) are withdrawn or reduced before the impact of the ETRF can be fully measured, some young people that are at risk will drop out of the system, and young people that have already disengaged will find it more difficult to re-engage.

To avoid this, YANQ recommends that resources need to be provided to both flexible learning services and mainstream services to allow them to build closer relationships that will:

- make it easier for young people in flexible learning services to reconnect with mainstream schools
- provide opportunities for mainstream schools to utilise and learn from the staff of flexible learning services who have demonstrated success in encouraging at risk young people to rebuild and maintain commitments to education.

Research into partnerships conducted by the Queensland Council of Social Service (Powell, Brown, McCarthy, Barker, 2002) found that relationship building was a process that takes significant time and resources. Without practical and tangible support to build connections, flexible learning services and mainstream schools will struggle to create more accessible pathways into education for young people at risk.

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