

**.RESPONSE TO THE DRAFT
DISCUSSION PAPER - Proposal to
Amend the Education (General
Provisions) Act 1989**

by

**YOUTH AFFAIRS NETWORK OF
QUEENSLAND INC.**

August, 1996

Prepared by

Penny Carr

TABLE OF CONTENTS

ABOUT YANQ.....	5
INTRODUCTION.....	5
RESPONSE TO THE PROPOSED AMENDMENTS.....	6
Part One	6
Brief History of Discipline Problems in Queensland Schools.....	7
Need for Holistic Approaches to Difficult Behaviour.....	8
Guiding Principles.....	8
Increased Powers for Principals to Suspend Students	8
Length of Suspensions	8
Alternative Programs	9
Due Care for Students from Non-English Speaking Backgrounds .	9
Vague Definition of Behaviour Warranting Suspension	9
Monitoring of the Process	9
Administrative Delays	10
Exclusions of School Students	10
The Importance of Children Remaining in Education	10
Vague Definitions for Behaviour Warranting Exclusion	10
Differentiating Exclusion Procedures for Compulsory and Non- Compulsory Students	10
Effect of Principals Having Unvetted Power.....	10
Denial of Natural Justice	11
APPEAL PROCESS	11
PART 2 & 3	12
CONCLUSION	12
BIBLIOGRAPHY.....	12

YANQ'S RESPONSE TO THE DRAFT DISCUSSION PAPER - Proposal to Amend the Education (General Provisions) Act 1989

ABOUT YANQ

The Youth Affairs Network of Queensland (YANQ) is the independent non-government umbrella organisation of groups and individuals from Queensland's youth sector. YANQ acts to promote the interests and well-being of young people in Queensland, advocates for them to government and the community, and encourages the development of policies and programs responsive to the needs of young people.

YANQ consists of over 400 individual and organisational members throughout the State, including youth services, advocacy groups, church groups and community organisations with interests in areas as diverse as juvenile justice, housing, health, rural issues, young people with disabilities, young women's issues and young people from Aboriginal and Torres Strait Islander and non-English speaking backgrounds. Associate members are drawn from federal, state and local government bodies.

INTRODUCTION

YANQ is pleased to be able to participate in this consultation process. The document presented here is not comprehensive due to the very short timelines imposed on YANQ to make a submission. As a Statewide and membership driven organisation it has been particularly difficult for YANQ to adequately respond to the issues raised in the Education Department's document.

The issues raised are vitally important to Queensland's children and young people and while recognising the government's desire to amend the current legislation quickly, it is YANQ's view that changes of such consequence should engage the community and community organisations in a much more meaningful and accessible way.

RESPONSE TO THE PROPOSED AMENDMENTS

Part One

YANQ is concerned by the third paragraph of 1.1 which states 'grounds for the suspension of students are clearly identified;..... principles of natural justice are incorporated'.

While we will take these issues up in the section which relates directly to each area, we make comment here about these introductory comments. In YANQ's view it is incorrect to say that the grounds for suspension of students are clearly identified. Rather they are vague and offer great discretion in their application. Further YANQ believes that these proposed amendments **do not** incorporate principles of natural justice and continue to abrogate the Education Department's responsibilities in establishing an unbiased system for the application of suspension and exclusions and an accessible appeals process.

The House of Representatives Standing Committee on Employment, Education and Training (HRSCEET) (1996) state that '(T)he natural justice principle of a fair hearing requires that the individual have full opportunities to answer any allegations, dispute any facts and.....may include the right to have someone assist in presenting that case.....Natural justice requires also that the person or tribunal hearing the matter has a duty to be unbiased'(p.20). The HRSCEET go on to recommend that:

'Each State and Territory ensure that,

a) school disciplinary legislation policy and procedures include a precise and consistent statement of the grounds and procedures for each category of exclusion of students from school; and

b) that clear and accurate information be developed for students and parents, and training materials for schools on procedures for school suspensions, exclusion and expulsion, including mechanisms of appeal' (p.21).

YANQ believes there to be a number of breaches of procedural fairness within the process outlined in the Proposals. In particular we are concerned with the continued practice of Education Department employees being regarded as unbiased arbiters in the process of exclusion of students. This is further compounded by the proposal in section 5.1(h) of the proposals document. This section will not only allow departmental officers (namely, Executive Directors or Senior Departmental Officers, from the Regional Offices) to approve exclusion but to allow the delegation of these powers. This means decisions on exclusions may be made at the level of principal for compulsory students. In effect it allows the possibility of one principal telling another principal why they think a student should be excluded and that principal making the decision.

Further concerns are raised by the intention of conferring *unvetted* power to school principals to exclude post-compulsory students.

YANQ is strongly opposed to any changes in relation to the point in the Department where decisions on exclusions are made.

Brief History of Discipline Problems in Queensland Schools

Perceived problems in relation to student discipline are not new in Queensland schools. Meadmore (1992) refers to the first report to address the issue of school discipline in Queensland. This document was completed in 1978 by a joint committee of the Queensland Teachers Union and the Queensland Department of Education and was called Discipline in Secondary Schools (DSS). This research found two different sets of causes of what was then referred to as 'indiscipline', those outside of the school's control and those within the control of the school.

The causes outside of the school's control were related to the personal background of students and a general decline in society's standards. Five causes within the control of the education system, 'if not by the individual school and administrators'¹, were identified. Those factors included the size of schools and classes, the increasing irrelevance of some schooling for some children, problems associated with primary to secondary transition and inadequate performance by teachers (DSS, 1978:2). Meadmore notes 'that with the exception of perhaps two items, the lists could readily be mistaken as an excerpt from a nineteenth century document. He argues that a wide range of contemporary social, economic and educational considerations were ignored in this analysis, not the least of it growing youth unemployment. It was subsequently suggested that the issue of schooling and school discipline needed to be considered in a broader social context, which that report failed to do (Meadmore, 1992).

The next report on discipline was the Ahern Report (1980). Of this Meadmore says '(O)ne might be excused for gaining the impression that the solutions to school indiscipline appear to lie anywhere but in the school. Maladjusted students being reared in faulty homes and taught by teachers whose preparation for the job has not been focused in the right direction seem to account for a significant degree of indiscipline in schools, according to this report'.²

Meadmore notes that '(T)he area of suspension and exclusion of students from school has been a vexed and confused problem for many years'.³

Regard for the wider social context in dealing with behaviour difficulties of students was identified as far back as 1978 in the DSS report. Recent reports have identified the school as the only other universal institution in children and young people's lives when the family begins to break down. In light of this the need for schools to take on a role of pastoral care and identify and address issues for students in the broader context of their lives is essential. The House of Representatives Standing Committee of Community Affairs (HRSCCA)(1995) identifies this issue. It states: '(T)he Committee strongly supports the pastoral care role within schools and is concerned at attempts to define educational obligations too narrowly. However, broadening the pastoral role of schools requires additional resources and responsibilities which cannot merely be added to existing teaching responsibilities'⁴.

It is in this context, in YANQ's view, that difficult behaviours need to be managed. Resources within schools need to exist to address the needs of students when difficulties emerge. The principle of the 'best interests of the child' must be adhered to. Support for young people to remain in education must be the primary focus.

Need for Holistic Approaches to Difficult Behaviour

The HRSCEET express 'a growing concern forlarge numbers of young people who are for various reasons missing out on the benefits of education and possibly on a better future. These are the young people, the invisible ones, who are not even completing Year 10, who are becoming disconnected from education before the age of 15 or 16 when it is legal for them to leave school.....The social and economic cost to these young people themselves and to the Australian community is measured in the numbers who become long-term unemployed, homeless, caught in a poverty trap, and dependent on welfare, and in the individual and community cost of those who become involved in the juvenile justice system'(p.3)

YANQ recognises the issue of pastoral care is partially addressed by the Education Department with the placement of 200 support staff in schools around the state. YANQ applauds the government's decision to place more support workers in schools and hopes there will be more resources directed to these pastoral care and support roles in the future. However, the punitive and authoritarian position in relation to suspensions and exclusions does not mirror this progressive initiative. In YANQ's view suspensions and exclusions are not adequate ways of dealing with student disruptive behaviour.

Guiding Principles

It is YANQ's view that within the proposed guiding principles schools' commitment to pastoral care and students' rights to adequate support to remain in the school system should be expressed.

Increased Powers for Principals to Suspend Students

Length of Suspensions

YANQ is completely opposed to the proposal to allow school principals to suspend students for up to 20 days. This period of suspension is extremely likely to end up in a quasi exclusion because of the effect on the student.

Students who are subject to such lengthy suspensions will experience great difficulty in reintegrating back into the mainstream system. Further, this response does not recognise any impact the school system may have on behaviour. The student will be returning (if they make it) to a system which hasn't changed, where they are expected to act out and continue in the way they were prior to suspension. YANQ's view is that suspending students for this length of time will result in many young people dropping out of the system.

The disruption to schooling by switching between mainstream and alternative programs will be a significant barrier to young people's continuation of schooling.

Alternative Programs

An extensive amount of resources will have to be injected to develop alternative programs. YANQ believes that these resources would be better utilised in the development of supportive early intervention programs and responses. However, if this initiative is to go ahead, it must be ensured that alternative programs are set up before the implementation of increased powers of principals to suspend students.

Section 4.1(c) states that where a principal suspends a student for more than 5 days that *it is intended* to provide alternative arrangement. YANQ's view is that where principals have powers to suspend students for such lengthy periods of time, providing an alternative study program must be an **imperative**. The study program must be integrated with the program the child was partaking in before suspension.

Due Care for Students from Non-English Speaking Backgrounds

YANQ is also concerned with the availability of English as a Second Language (ESL) programs for children of a non-English speaking (NES) background. Young people from NES backgrounds must not experience double jeopardy if they are subjected to a suspension.

Any notification of suspension or exclusion meetings, appeal process etc. must take into consideration the ethnic background of the child at risk of suspension. Where this involves children and young people from NES backgrounds the parents of the child must be informed in a way that they can understand what is happening. Their participation in any meetings must also be facilitated, by the use of interpreters if necessary, and in addition to representation.

Vague Definition of Behaviour Warranting Suspension

In relation to the grounds for suspension, 'the student is guilty of disobedience, misconduct or other conduct prejudicial to the good order and management of a school' YANQ is concerned that this is ill defined and vague. The sorts of behaviour which may result in suspension must be clearly defined to ensure the application of this section is not subjective, ambiguous and inconsistent.

Monitoring of the Process

Comprehensive data must be kept if this power is to be given to principals. Data must indicate length of suspension; reason; ethnicity and age of student; what program they were on; whether they returned, if they did; and why they dropped out if they did. This must be monitored not only at the student's point of re-entry but looked at longitudinally to see if they can maintain participation in the mainstream system after such lengthy suspensions.

Administrative Delays

In relation to section 4.1(k) where a decision on an exclusion has not been made after 20 days the child should be allowed to return to school pending an outcome. Decisions on exclusion must be made promptly and the child **should not** suffer because of administrative delays.

Exclusions of School Students

The Importance of Children Remaining in Education

Paraphrasing the Ministerial Council on Education, Employment, Training and Youth Affairs (MYCEETYA) (1994) HRSCEET says that 'compared with young people who have stayed on to complete year 12 or its equivalent, early school leavers were:

- * twice as likely to come from a low socioeconomic background;
- * two and a half times more likely to be unemployed;
- * two to four times more likely to be in low-skilled or unskilled jobs;
- * five to six times more likely to be neither in the labour force nor undertaking study - perhaps doing nothing at all.

Early school leavers are those young people who leave school either before or on completion of Year 10. Truants and students who have been suspended, excluded and expelled are part of this group whose life changes are adversely affected by an unsatisfactory education.'(p,3)

Vague Definitions for Behaviour Warranting Exclusion

YANQ has the same concerns in relation to the vague and ambiguous description of behaviours which may result in exclusion as raised in relation to suspensions. These behaviours must be much more clearly defined.

Differentiating Exclusion Procedures for Compulsory and Non-Compulsory Students

YANQ is vehemently opposed to separate processes for exclusion existing for compulsory and post-compulsory students. The proposal to locate authority for exclusions lower in the Departmental hierarchy fails to recognise the severity of the effect of exclusion for students. Treating compulsory and post compulsory students differently, in YANQ's view, amounts to age based discrimination.

Effect of Principals Having Unvetted Power

The House of Representatives Standing Committee on Employment, Education and Training (HRSCEET)(1996) state that 'there were from 200 to 1000 suspensions a month in Queensland schools in 1994. A further 872 students were suspended in 1994 with a recommendation for exclusion made by the school principal, and of these students forty percent were aged under 15 years. Nearly half of those students recommended for exclusion were subsequently excluded. Thirteen percent of students excluded from Queensland schools in 1994 were primary school students' (p.12). The outcome of these proposals will be to see more children excluded from the education system. Sixty percent of those students

recommended for exclusion were post-compulsory students with around half of those students excluded. Based on these figures, at an extremely conservative estimate, we can expect around 550 post-compulsory students alone to be excluded in one year. As stated, this is an extremely conservative estimate which takes no account of population growth or the likelihood of increased incidence of both suspension and exclusion due to principals greater autonomy and discretion in the process.

Denial of Natural Justice

Natural Justice, which is stated at the beginning as being incorporated, is completely denied young people subject to exclusion under these proposals, particularly those over compulsory school leaving age. Permission for non-compulsory school students to remain in the school system lies solely at the discretion of the school principal. In these circumstances the principal will have unvetted power to exclude children. For compulsory school students the scenario is little better with departmental representatives, **possibly other principals**, making decisions on exclusion **without ever having met with the student**.

YANQ believes that the final decision whether to exclude any student must remain with the Minister on recommendation from the Director-General.

YANQ is also opposed to the process set out where the student, at no time, gets to meet or have a hearing with the decision-maker. Within these proposals the information to the decision-maker is passed on through the principal. When the power to exclude is outside of that vested in the principal (which it should be for every exclusion) the information to the decision-maker should not get passed on through the principal. YANQ opposes any process which does not allow the student to put their case directly to the decision-maker, in regard to both suspensions and exclusions.

All students must have the opportunity to partake in an impartial and unbiased process before a decision to exclude them can be made.

APPEAL PROCESS

YANQ would be supportive of the idea of a panel to review decisions in regard to suspensions and exclusions. Before fully endorsing this proposal however, YANQ needs to know the make-up of panel members. In YANQ's view the majority of members of the panel must be independent of the Education Department. It would also have to have the flexibility to respond quickly to appeals to decisions and be accessible for students statewide.

PART 2 & 3

YANQ has had insufficient time to respond to these sections.

CONCLUSION

YANQ appeals to the government to review these proposals in view of the serious issues raised here by the States non-government youth peak body.

BIBLIOGRAPHY

- Ahern, M. (chair), 1980, Final Report of the Parliamentary Select Committee on Education in Queensland, Brisbane: Queensland Legislative Assembly
- House of Representatives Standing Committee on Community Affairs Report on Aspects of Youth Homelessness 1995
- House of Representatives Standing Committee on Employment, Education and Training 1996 Truancy and Exclusion from School Australian Government Printing Service
- Meadmore, P., 1992 in Discipline in Australian Public Education Changing Policy and Practice edited by Slee, R.
- Ministerial Council on Education Employment, Training and Youth Affairs (MYCTEEYA) 1994 National Strategy for Equity in Schooling
- Queensland Teacher's Union and Queensland Department of Education. 1978 Discipline in Secondary Schools, Brisbane

¹ Meadmore, P., p. 109 in Slee, R., (editor) Discipline in Australian Public Education Changing Policy and Practice

² Meadmore, P., p. 112 in Slee, R., (editor) Discipline in Australian Public Education Changing Policy and Practice

³ Meadmore, P., p. 117 in Slee, R., (editor) Discipline in Australian Public Education Changing Policy and Practice

⁴ House of Representatives Standing Committee on Community Affairs Report on Aspects of Youth Homelessness 1995