

# EDUCATION AND TEACHING LEGISLATION AMENDMENT BILL 2016

*First Reading*

**Bill introduced on motion by Mr Adrian Piccoli, read a first time and printed.**

*Second Reading*

**Mr ADRIAN PICCOLI ( Murray—Minister for Education) (16:25):** I move:

That this bill be now read a second time.

I am pleased to bring before the House the Education and Teaching Legislation Amendment Bill 2016, which will amend the Board of Studies, Teaching and Educational Standards Act 2013, known as the BOSTES Act, the Education Act 1990 and the Teacher Accreditation Act 2004 to give effect to the recommendations of the recent Review of the Board of Studies, Teaching and Educational Standards. In March 2016 I commissioned the review to consider the effectiveness of the 2014 amalgamation of the previous Board of Studies and the Institute of Teachers, and to ensure that the organisation is best equipped to meet emerging challenges. The review considered whether the board is based on contemporary governance principles and standards, has the capacity to leverage the best of national reforms, and has an up-to-date and effective approach to regulation.

An expert panel carried out the review. It was chaired by Professor Bill Loudon, AM, who is the Emeritus Professor of Education at the University of Western Australia and formerly Senior Deputy Vice Chancellor at the University of Western Australia. I thank the panel, which included Ms Lisa Paul, AO, PSM, and Dr Phil Lambert, PSM, for their extensive work in conducting the review. The panel consulted widely and received 43 submissions from organisations, stakeholder groups and individuals, as well as more than 4,700 responses to an online survey completed by principals, teachers, parents and students. The review found strong support from the education community for the work of the Board of Studies, Teaching and Educational Standards and confidence in its ability to maintain high standards. But New South Wales cannot and should not rest on its laurels. We need to set the bar high and support our schools, teachers and students to achieve high standards.

The review made 13 recommendations and 41 sub-recommendations that addressed the need for the board to modernise its governance structures, adopt a streamlined and risk-based approach to regulation, have an outcomes-focused approach, and better leverage national reforms, data and research. Underpinning the recommendations was the need for enhanced accountability and decision-making, and for the board to ensure its processes and structures can best support quality teaching and learning. The New South Wales Government has accepted the of the review. This bill will amend the Board of Studies, Teaching and Educational Standards Act 2013, the Teacher Accreditation Act 2004 and the Education Act 1990 to enable the necessary changes to the organisation's governance and regulatory arrangements.

I turn now to the specific provisions of this bill. The bill amends section 4 of the Board of Studies, Teaching and Educational Standards Act 2013 to rename the organisation as the New South Wales Education Standards Authority.

The name of the Act reflects this change. It will be renamed the Education Standards Authority Act 2013. The new authority will remain a single, independent statutory authority and will retain all of the current functions of the Board of Studies, Teaching and Educational Standards.

A governing board will be established to provide leadership in improving standards of school education across the State and overseeing the authority's performance. This includes the authority's strategic directions, financial governance and legislative functions. I established BOSTES in 2014 to

bring the cornerstones of education standards together in one educational body. I expect that the board of the authority will go further, and have a strong focus on integrated policy development and service delivery. In keeping with the board's role in strategic governance, the chairperson of the board and chief executive officer of the authority will be separate positions. This is consistent with good governance practice and will ensure that the strategic leadership and operational functions are at arm's length. The chair of the board will be an independent, part-time position, while the chief executive officer of the authority will be the head of the agency. Both positions will be appointed by the Minister. This marks a change from current arrangements whereby the president of the Board of Studies, Teaching and Educational Standards performs both roles. To ensure board continuity, the legislation will enable the current president to become the board's inaugural chairperson.

The bill amends section 11 of the BOSTES Act to make it clear that the overarching purpose of the authority is to drive improvements in the standard of school education in New South Wales. The authority will take an evidence-based approach to identifying and responding to areas of concern. It will recommend improvements to schools and school systems, and changes to government policy where necessary. The authority will carry out its role with a strong focus on the quality of teaching and learning. It will shine a spotlight on practice across both government and non-government schools, helping to maintain high levels of educational standards for students in New South Wales. The research, policy development and evaluation undertaken by the authority are likely to have a positive and lasting influence on the national agenda and strengthen the position of New South Wales as an education leader.

The governing board will be guided by a charter and an annual Ministerial Statement of Expectation to ensure that the authority is clearly focused and delivers on its objectives. The charter will be an overarching statement, which sets out how the board will meet the objectives and properly fulfil its functions under the education and teaching legislation. The ministerial statement of expectation will set out the Minister's priorities for the authority each year. For example, the Minister may wish the authority to conduct research into the use of student assessment data to improve teaching practice and student learning. The statement may also include some standing items such as a requirement for the board to conduct a critical self-evaluation of its performance. These arrangements will also ensure that the authority's work aligns with government policies, while providing flexibility to respond to emerging challenges. The authority will be an important means by which key government reforms, including Great Teaching, Inspired Learning, Literacy and Numeracy Action Plan, and the Rural and Remote Education Blueprint for Action can be integrated into the work of teachers and schools.

The board will be leaner to support effective decision-making, with its size reduced from the current 23 members to a maximum of 12 to 14 members. Although smaller, the board will continue to reflect the breadth of the education sector and appointments will ensure an appropriate mix of skills, knowledge and experience. This will ensure that the board retains its inclusive nature and productive relationships with stakeholders, while also giving it the requisite skills and expertise to be a leader in education policy. Staggered terms and maximum appointment periods will also balance board stability with the need for renewal.

The bill provides that the Minister will appoint six members to be drawn from the three school sectors, two teachers' unions and a member from Aboriginal education. It is envisaged that the Secretary of the Department of Education, the executive director of the Catholic Education Commission of NSW, the chief executive of the Association of Independent Schools of NSW, a senior member of the NSW Teachers Federation, a senior member of the Independent Education Union and a leader from Aboriginal education will be appointed to these roles. In addition, four to six members will be appointed with regard to teachers and school leaders, universities, vocational education and training, parents, early childhood education, special education, business and strategic advisory skills. It is intended that the board will include rural and remote representation. Given the authority's significant regulatory responsibilities, the bill inserts a requirement that board members must act in the interests of the authority and students. The board will also proactively manage any conflicts in line with the best contemporary governance practice.

The board will exercise its core functions through five decision-making regulatory committees. It is important that the board delegate its functions to these committees to ensure that the board can focus on strategic issues, while operational matters are effectively managed by committees. The committees will focus on teacher accreditation and registered professional learning functions, syllabus development and curriculum engagement, technical assessment issues, school registration and accreditation functions, and initial teacher education accreditation functions. One of the five new regulatory committees will replace the current Quality Teaching Council, which will have a reduced membership from the current 23 members to 11 members. We recognise that teachers must continue to have a voice on standards and professional learning. For this reason membership of the Quality Teaching Committee will be balanced to ensure there continues to be professional representation, while also having flexibility to achieve the right mix of skills and strengths.

The bill proposes an amendment to the Teacher Accreditation Act 2004 to provide for five members of the committee to be elected from teaching professionals and for five additional members to be ministerial appointments. All committees of the board with a delegated decision-making function must also be chaired by a non-executive member of the board to ensure continued board oversight. Advisory committees will also be established to provide advice to the board on finance, audit and risk, and on research and technical matters. While the chief executive officer will be responsible for the budget and financial management of the agency, the board will have an oversight role to ensure transparency in relation to budgeting and expenditure, including expenditure of any revenue funds. This is particularly important to ensure transparency of the hypothecated funds generated by teachers' accreditation fees. These governance changes will ensure that membership of the committees and the board will continue to reflect the breadth of the education sector. They will also equip the organisation with a high level strategic focus and greater agility to respond to new challenges. It is my expectation that the new committees will be operational by 31 March 2017.

The bill provides for a streamlined, risk-based approach to school registration, with strengthened and more nuanced regulatory responses. It will enable the authority to shift its efforts from a focus on processes to a stronger emphasis on quality teaching and student learning. The authority will also look to improve its own processes to reduce red tape for schools and sectors. By amending section 69 of the Education Act 1990 the authority will be able to require that each principal certify that their school has documentary evidence of compliance. All schools are already required to have evidence of their compliance with registration. Most schools will no longer have to provide extensive documentation to the authority to renew their registration. For the vast majority of schools that are complying with requirements, this will help to streamline the registration processes.

Moving away from a process-driven approach to compliance with school registration requirements will also result in less red tape for the authority, giving inspectors more time to consider the quality of teaching and learning. The new qualitative dimension to registration processes will enable the authority to better support schools to achieve high standards. Section 47 of the Education Act currently lists the requirements for school registration. The bill amends this section to ensure that those requirements are viewed through a "focus on quality" lens. That means that while the requirements largely have not changed, the way they are interpreted will change. For example, section 47 currently requires schools to deliver the relevant curriculum. If a school does that, the requirement for registration is met. The changes will mean that in deciding whether the requirement has been met, the authority will now look at the quality of student learning. It can examine the standard of teaching of the courses, the student engagement in learning at the school and other relevant matters.

The question for the authority to consider will no longer be: Is the curriculum being delivered? Instead, the question will be: Is the curriculum being delivered in a way that meets the needs of quality student learning? This approach will apply to all of the registration requirements. The amendment will allow the authority's inspectors to consider more deeply whether an individual school is providing a quality teaching and learning environment. The authority will develop guidelines and other materials, in consultation with the sectors, to fully explain the qualitative aspects of registration so that schools will know exactly what the authority will be looking for.

Schools and teachers should welcome this change. It will mean more support through clear advice for those schools identified as needing help, as well as the provision of enhanced quality assurance for schools that are performing well.

In order to better identify schools that require assistance, the authority will be able to undertake random and risk-based audits and unannounced inspections. Currently, board inspectors may conduct inspections at all reasonable times. The bill's amendment to section 14 of the Board of Studies, Teaching and Educational Standards Act removes any doubt that the authority has the power to inspect school premises unannounced. The authority will, of course, have suitable rules in place to guide inspectors on the appropriate use of this power. Random and risk-based audits and spot checks send a strong signal to schools that they must comply with the requirements for registration at all times. They are an important element of the risk-based management approach. A risk-based approach also means the authority can better identify schools that are having difficulty meeting registration requirements and the authority can provide support and guidance to schools in order to restore full compliance. However, all schools should be aware that even those assessed as low risk can be subject to a random compliance audit.

With respect to enforceable conditions, currently the only enforcement mechanism available to BOSTES for non-compliance by a school is a reduced period of registration or cancellation of registration. This is a very blunt instrument. The bill inserts a new power into the Education Act to allow for the Minister to impose enforceable conditions on registration. This enhances the authority's regulatory powers by allowing for specific and targeted action and avoids a heavy-handed approach. The change will allow responses to better fit the nature and extent of the non-compliance and to better assist schools to meet all of the registration requirements and their qualitative dimensions. For example, a school could be directed to remedy a problem with the school's physical infrastructure that poses a safety risk to students. The school would be required to demonstrate that the matter has been resolved within a specified time period. Failure to do so would activate the next level of enforcement action, that is, reduction or cancellation of registration.

Schools will also have to disclose to the school community that conditions have been placed on the school's registration and the nature of the conditions. This disclosure is important. It will mean parents, students and teachers can help influence the school to resolve the issues. Disclosure will also act as an incentive for the school to implement the conditions in a timely manner. The changes to strengthen non-government school registration will extend in a similar way to the government schooling system. The government system will now also be subject to random and risk-based audits and spot checks by the authority in the same way that non-government schools and non-government systems are. As with spot checks of non-government schools, the amount of notice will be determined by the authority.

The bill inserts a new section 27A into the Education Act, which will give the authority explicit power to monitor and provide advice to the Minister and the Secretary on the government schooling system. If the authority identifies any registration issue at a government school, it will notify the department with clear advice about the problem and provide recommendations of how to remedy the issues. The Minister may also be notified, as occurs with non-government school registration issues.

These changes mean that the authority will be better equipped to provide an independent, external view of the quality of education in the government schooling system. The changes will provide an important additional dimension of external oversight. While there will be greater alignment between the government and non-government sector, I expect the authority to undertake a risk-based approach to its regulation. Parents and students in all New South Wales schools will have greater assurance that their school is meeting high standards. The changes will help to ensure that schools are supporting their teachers in maintaining the highest professional standards. The authority's independent oversight will help to shine a spotlight on problems in any school in New South Wales, be it government, Catholic or independent. The changes to the legislation around registration of schools mean that the authority will have the necessary powers to work with schools and systems to resolve issues and drive improvements in education in New South Wales.

The move away from a process-driven approach to registration will also free up resources within the authority. The authority will be empowered to conduct reviews in priority areas of education across schools and systems, enabling consideration of localised and systemic issues that may be affecting performance. This could include literacy and numeracy or any other emerging priorities, with the outcomes shared amongst schools to support best practice. The findings from these reviews will support the authority's principal objectives of providing strategic leadership and promoting evidence-based approaches to improve educational standards.

In order to align with Commonwealth requirements, from 2017 non-government schools seeking registration will need to demonstrate financial viability. As this provision already exists in Commonwealth legislation for the purposes of funding, it is sensible that financial viability be considered by the authority at the time of a school's initial registration. The authority will develop rules and guidelines to provide clarity on the requirements and the procedures to be followed. Similarly, the Education Act currently requires that those in positions of responsibility at a non-government school meet a good character test. This will be replaced with a fit and proper person test in order to better align with Commonwealth requirements. This test goes to the issue of capability and expertise, and it is appropriate that the requirement be included at registration. These changes will give parents and students additional assurance that schools are appropriately resourced and managed.

Teacher Accreditation Authorities retain responsibility for accrediting teachers. The authority's new powers to conduct random, risk-based audits and spot checks will also apply to quality assurance arrangements for teacher accreditation authorities. This expands on a process already underway to streamline regulation of Teacher Accreditation Authorities and to move away from a focus on document checking to a risk-based approach. The authority will utilise its new inspection powers to check compliance with and the consistency of the Teacher Accreditation Authorities' processes for teacher accreditation. This is important in quality assurance of teacher accreditation.

The bill provides through amendments to the Teacher Accreditation Act 2004 that the authority will have the sole responsibility to suspend or revoke the accreditation of a teacher. Currently, both Teacher Accreditation Authorities and the Board of Studies, Teaching and Educational Standards can make these decisions. This creates unnecessary duplication and confusion and may lead to inconsistency in decision-making. The amendments empower the authority to be the sole decision-maker to suspend or revoke a teacher's licence to teach. It is appropriate that as the New South Wales regulator of teacher quality the authority makes these significant decisions. To assist in managing such cases, the authority may also establish cross-sectoral panels. Procedures and guidelines will also be developed by the authority to ensure procedural fairness and consistency in decision-making.

Given the critical importance of teacher quality, the bill amends the Teacher Accreditation Act to legally require employers to inform the authority of information that may result in a teacher having their accreditation suspended or revoked. The authority's powers will also be enhanced to further quality assure initial teacher training. The authority will have the power to suspend, revoke and impose conditions on approvals to ensure high-quality initial teacher education programs. The bill also provides initial teacher education providers with the right to appeal these decisions. Approval processes for professional learning providers will also be streamlined, with the authority able to conduct risk-based audits of providers and to withdraw approval where required.

The changes in the bill to the education and teaching legislation will also help to further position New South Wales as a leader in respect of the National Education Agenda and enable key recommendations of the review to be implemented. For example, the authority will, as the review recommended, change how it engages with the Australian curriculum. The authority will proactively include curriculum issues in any national consultation process in order to facilitate efficiency. The authority will maintain a consultative approach in relation to syllabus development and will also focus efforts on streamlining implementation. Better processes will mean that teachers and students have access to new content earlier, and a drive to reduce syllabus overcrowding will mean more time for classes to dive deeply and creatively into content.

In conclusion, this bill provides a series of measured and appropriate elements that will strengthen the New South Wales education system. The changes complement a suite of evidence-based reforms the New South Wales Government is implementing to enhance teacher quality and lift student performance. The New South Wales Government, teachers, school leaders and parents all have a strong investment in New South Wales schools. This legislation provides greater assurance that our schools can continue to deliver high-quality education for all students in New South Wales. I commend the bill to the House.

**Debate adjourned.**