

Extenuating Circumstances for Cancellation and Reinstatement Policy

1. Purpose

The purpose of this policy is to determine the circumstances that will be considered by the Board as extenuating in relation to the cancellation and reinstatement of registration.

2. Scope

This policy applies to the consideration of extenuating circumstances in relation to the cancellation and reinstatement of teacher registration under s 27 of the *Teacher Registration Act 2012* (Act).

This policy applies to teachers registered by the Teacher Registration Board of Western Australia (TRBWA), TRBWA staff and Board members involved in the administration and decision making process for the registration of a teacher in Western Australia.

The policy does not apply to matters related to the expiry of registration due to non-renewal of registration.

3. Background

Under s 27(1) of the Act, the Board is to cancel the registration of a teacher as soon as possible after the Board becomes aware that the teacher is not entitled to be registered.

The Act states, *inter alia*, that a teacher is not entitled to be registered if -

the teacher has failed to give to the Board the teacher's written consent for the Board to obtain a criminal record check in accordance with a notice under s 43 of the Act – (s 27(2)(c)); or

the teacher is in arrears in respect of fees due and payable under this Act – (s 27(2)(f))

The Act, however, also states under s 27(3) that:

the registration of a teacher must not be cancelled under this section, or if the registration has been cancelled must be reinstated by the Board, if –

- (c) where 27 (2)(c) or (f) applies, the Board is of the opinion that there are extenuating circumstances.

4. Definitions

Criminal record check

As defined in s3 of the Act, means information provided by the Australian Federal Police, the Police Force of a State or Territory or another country, or another body or agency prescribed, regarding the criminal convictions of a person for offences under the law of the Commonwealth, or of a State or Territory, or of another country.

5. Policy

5.1 Cancellation of a registration

Cancellation of a registration for the non-payment of fees

It is a requirement that all teachers registered with the TRBWA pay an annual fee as prescribed in r 28 the *Teacher Registration (General) Regulations 2012* (Regulations).

The Regulations prescribe that annual fees are payable by the 31 March in each year. Where the annual fee is not paid by this date, but is paid between 1 April and 30 April inclusive, a late payment processing fee applies.

The first working day following 30 April, the Board will commence the process of cancelling the registration of those teachers who are in arrears unless the Board is satisfied that there are extenuating circumstances.

Cancellation of a registration for the failure to give consent for a criminal record check

Under s 43 of the Act, the Board may give written notice to a registered teacher requesting that the teacher provide written consent for the Board to obtain a criminal record check in respect of the teacher. Failure to provide consent will lead to cancellation of a teacher's registration unless the Board is satisfied that there are extenuating circumstances.

5.2 Extenuating Circumstances

The Board must not cancel the registration, or if the registration has been cancelled must be reinstated, if the Board is of the opinion that there are extenuating circumstances - (s 27 (3)).

Generally, circumstances that the Board may consider to be extenuating are those which are not reasonably foreseeable or are beyond the control of the teacher and are relevant to the teacher not being able to meet their requirements under the Act.

Such circumstances could include those related to illness of the teacher or a family member, hospitalisation or an emergency that renders the individual unable to meet their obligations.

Requests for Board consideration of extenuating circumstances must be in writing to the Board. Evidence relating to the extenuating circumstances may be provided, if appropriate, to support the request.

Written requests for extenuating circumstances will be considered by the Board on a case by case basis.

Generally, those circumstances over which the teacher has control such as planned leave, not updating contact details or an oversight in relation to their obligations, are not considered to be extenuating in nature.

5.2.1 Reasons not considered to be extenuating circumstances – Teacher fails to give the Board written consent to obtain a criminal record check.

Circumstances not considered extenuating in relation to the cancellation and reinstatement of registration due to the failure to provide consent for a criminal record check, include but are not limited to, the following:

- **Change of details** – In accordance with r 27a of the Regulations, it is a requirement that a teacher keeps their contact details current with the TRBWA.

- **Notices not received** - The TRBWA communicates with teachers regularly via email and letter regarding their registration obligations. It is the responsibility of the teacher to ensure their contact details are current and that they check all mediums of communication.
- **Innocent oversight** - Failure to provide consent to a criminal record check due to an innocent oversight such as a misplaced notice or misread instruction.

5.2.2 Reasons not considered to be extenuating circumstances – Teacher in arrears in respect of fees due and payable.

Circumstances not considered extenuating in relation to the cancellation and reinstatement of registration due to arrears in respect of fees due and payable, include but are not limited to, the following:

- **Change of details** - In accordance with r 27a of the Regulations, it is a requirement that a teacher keeps their contact details current with the TRBWA.
- **Invoices and notices not received** - The TRBWA communicates with teachers regularly via email and letter regarding their registration obligations. It is the responsibility of the teacher to ensure their contact details are current and that they check all mediums of communication.
- **Innocent oversight** - Failure to provide payment of the annual fee by 31 March each year due to an innocent oversight such as a misplaced notice or misread instruction.
- **Processing delay** - It is the responsibility of the teacher to ensure payment is received by the due date. Electronic payment can take up to 72 hours before showing as a payment on the teacher's financial record within the TRBWA system.
- **Incorrect reference number** - It is the responsibility of the teacher to ensure the correct reference number is used when making an electronic payment. Currently the payment reference number changes annually.
- **Incorrect payment amount** - It is the responsibility of the teacher to ensure the correct payment amount is received by the TRBWA.
- **Long Service Leave/Travel** - If a teacher is absent from teaching, due to LSL or travel, it is their responsibility to arrange for the annual fee to be paid whilst they are away or arrange for early payment.

5.3 Reinstatement of a registration

The Act mandates that the Board must reinstate the registration of a teacher, whose registration was cancelled for being in fees arrears or failed to consent to a criminal record check, if the Board is of the opinion that there are extenuating circumstances - (s 27 (3)).

Note that there is no scope to waive fees due and payable.

Prior to *reinstating* the registration, the Board must be satisfied that the teacher is no longer in arrears.

6. Supporting information

- Cancellation and Reinstatement for the Non-Payment of Annual Fees Policy
- Assessment of Criminal History Guideline
- Fit and Proper Policy
- Registration Complaints Policy
- Privacy Policy

7. Change History

Approved	Version	Details	Approved By
10 September 2014	1.1	Extenuating Circumstances for Cancellation and Reinstatement Policy	Board
Next Review Date		1 year from initial approval, then each 3 years	