

Conditions of Registration Policy

1. Purpose

This policy outlines the circumstances and requirements for imposing modifying or cancelling a condition of registration on a teacher's registration.

2. Scope

The policy applies to all The Teacher Registration Board (TRBWA) staff and Board members involved in the registration and regulation of teachers in Western Australia.

This policy applies to conditions imposed pursuant s.26 of the *Teacher Registration Act 2012* (the Act) which provides for the TRBWA's general power to impose conditions on a teacher's registration. It also applies to the imposition of prescribed conditions provided for in the *Teacher Registration (General) Regulations 2012* (the Regulations) and to conditions which may be imposed in accordance with the *Mutual Recognition Act 1992* and the *Trans-Tasman Mutual Recognition Act 1997*.

The policy does *not* apply to conditions imposed under Part 5 of the Act, namely conditions imposed as a result of disciplinary or impairment proceedings or to conditions imposed by the State Administrative Tribunal (SAT).

3. Background

The TRBWA has the power to impose, modify or cancel a condition on a teacher's registration. There are circumstances where the legislation or regulations stipulate the imposition of specific conditions in relation to the grant of particular categories of registration (Limited and Non-Practising Registration (regulations 16 and 17 respectively)).

The general power to impose conditions on a teacher's registration is afforded by section 26 of the Act:

26. Conditions imposed by the Board

- (1) *The Board may impose conditions on the registration of a teacher —
 - (a) when granting or renewing the registration; or
 - (b) during the currency of the registration.*
- (2) *The Board may at any time, on the application of a registered teacher or on its own initiative, on reasonable grounds, modify or cancel a condition on a teacher's registration.*
- (3) *Conditions imposed or modified by the Board under this section must be reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher.*
- (4) *The Board must not exercise its power under this section to modify or cancel a condition imposed or modified by the State Administrative Tribunal without the consent of the Tribunal.*
- (5) *A condition imposed by the Board may apply indefinitely or for a specified period of time.*
- (6) *A decision to impose, modify or cancel a condition on a teacher's registration made during the currency of the registration takes effect —
 - (a) on the day on which notice of the decision is given to the teacher under section 30; or*

(b) on a later day specified in the notice.

4. Policy

4.1 Conditions imposed by the TRBWA

Conditions imposed or modified by the TRBWA must be both reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher.

The TRBWA may only grant or renew registration where it is satisfied that all requirements for registration have been met. In circumstances where requirements are not fully met, the TRBWA is not legislatively authorised to grant registration. Registration will *not* be granted *conditional upon* the person meeting the requirements for registration.

Where a teacher is granted registration, conditions will also not be imposed which purport to require a teacher to meet a registration requirement at a level higher than that which is required for the grant of registration.

The TRBWA may, at any time, also modify or cancel a condition imposed by the Board on a teacher's registration. This may be as a result of an application from a registered teacher or on its own initiative. The application to request modification or cancellation of a condition will be made by the registered teacher not an employer of the teacher. In every case the decision by the TRBWA to cancel or modify a condition must be made on reasonable grounds.

The power to modify or cancel a condition does not apply to those conditions prescribed under the regulations.

The TRBWA will determine the duration of any condition imposed. The duration of a condition may apply indefinitely or for a specific period of time.

The TRBWA will first obtain the written consent of the SAT prior to seeking to modify or cancel any condition imposed or modified by that body.

4.2 Opportunity to Show Cause

Before the TRBWA makes a decision to impose, modify or cancel a condition of registration, the TRBWA will, pursuant to section 32 of the Act, provide the teacher with a reasonable opportunity to show cause why the decision should not be made. This is the case where a condition is proposed to be imposed either at the time registration is granted or during a period of registration.

In a situation where the TRBWA is considering imposing a condition on a teacher's period of Limited Registration, an opportunity to show cause will also be provided to the current employer(s) of the teacher.

Any representations made will be considered and documented prior to the TRBWA making a decision.

The requirement to provide an opportunity to show cause applies only to conditions imposed under the Board's general power to impose conditions under s.26 of the Act. It does not apply to the imposition of conditions which are prescribed in the regulations. Regulations 16 and 17 refer to prescribed conditions which, respectively, allow for the imposition of conditions on the grant of non-practising and limited registration (see sections 4.4 and 4.5 of this policy).

4.3 Notice of the Imposition of Conditions

Under section 29 of the Act, the TRBWA will provide notice of the decision to grant registration or the renewal of registration within 14 days of making the decision.

Where the registration is granted subject to conditions, the notice will also contain the condition(s) imposed, the reasons for the imposition of the condition(s) and a statement that the applicant and/or nominee (in the case of Limited Registration) has the right to apply to the SAT for a review of the TRBWA's decision.

Similarly, under section 30 of the Act, where a decision is made to impose, modify or cancel a condition *during* the period of a teacher's registration the TRBWA will, within 14 days, give written notice of the decision to the teacher and/or employer (in the case of Limited Registration) stating the reasons for the decision and advising of the right to apply to the SAT for a review of the decision.

4.4 Conditions imposed on the grant of Non Practising Registration

The regulations prescribe that a condition is imposed on the grant of non-practising registration that a person may teach on the condition that they satisfy the TRBWA that they meet the Professional Standards within one year of commencing teaching. A person may demonstrate that they meet the Professional Standards at either the Proficient or Graduate Level.

Additionally a condition will be imposed requiring the person to provide written notice to the TRBWA within 14 days of commencing teaching.

16. Condition on Non-Practising Registration (s. 25(2))

- (1) A person who holds Non-Practising Registration may teach on the condition that the person satisfies the Board that he or she meets the Professional Standards approved by the Board for either Full or Provisional Registration, as is relevant, under section 15(b) or 16(b) of the Act.*
- (2) The Board is to be satisfied in accordance with subregulation (1) within —
 - (a) one year after the person commences teaching while holding Non-Practising Registration; or*
 - (b) where extenuating circumstances exist, such longer period as is approved by the Board.**
- (3) Within 14 days after a teacher first commences teaching while holding Non-Practising Registration the teacher is to give written notice of that fact to the Board.*

4.5 Conditions imposed on the grant of Limited Registration

One of the requirements for the grant of Limited Registration is for a person to have been offered a teaching position. Regulation 17 prescribes the following condition to be imposed on all grants of Limited Registration:

The teacher may only carry out such teaching activities as are required for the teacher to undertake the duties of the teaching position, or positions, offered to the teacher, as referred to in section 17(a) of the Act.

Such a condition or conditions will limit the registration in that the teacher may only carry out such teaching activities as are required to undertake the duties of the teaching position as detailed in the application for Limited Registration. This prescribed condition may limit the teaching activities in terms of employer, educational venue, teaching area, subjects to be taught and year groups to be taught. The restrictions on the Limited Registration will be dependent upon the limits of the teaching duties as stated in the application.

4.6 Request to modify or cancel a condition

Under section 26(2) of the Act, the TRBWA may at any time, on the application of a registered teacher or on its own initiative, on reasonable grounds, modify or cancel a condition on a teacher's registration. In all cases, an application will be made by the teacher, and must be made in writing detailing the nature of the request, the basis for the request and be accompanied by any relevant supporting evidence.

TRBWA will consider the submitted documentation to determine whether the grounds for the request are reasonable. TRBWA is required to have regard to the best interests of children and whether the

condition remains reasonable and relevant to ensuring the professional, competent and safe practice of teaching by the registered teacher.

Prior to making a decision to modify or cancel a condition, the TRBWA will provide a teacher (and in the case of Limited Registration, the employer of the teacher) with a reasonable opportunity to show cause why a decision should not be made. Once a decision is made, the TRBWA must provide the teacher and employer (where applicable) with a written notice of the decision within 14 days. The notice will contain the reason for the decision and will advise of the right to apply to the SAT for a review of the decision.

4.7 Mutual Recognition and Conditions

The *Mutual Recognition Act 1992* and the *Trans-Tasman Mutual Recognition Act 1997* ('mutual recognition legislation') enable a person who is registered in connection with an occupation in an Australian State/Territory or New Zealand (the 'first state') to carry on the equivalent occupation in Western Australia.

The mutual recognition legislation allows for the TRBWA, as a local registration authority, to impose conditions on the registration of a person seeking registration as a teacher in Western Australia under the mutual recognition principle.

A person who lodges a notice with the TRBWA is, pending the granting or refusal of registration, provided with 'deemed' registration from the day that the notice is lodged. The TRBWA will then proceed to consider whether the person is entitled to substantive registration in Western Australia. Where this is considered to be the case, substantive registration as a teacher will be granted by the TRBWA.

Unless waived by the TRBWA, a teacher's deemed registration is subject to any conditions or undertakings applying to the registration in the first state.

Under mutual recognition legislation the TRBWA may impose conditions on the 'deemed' or substantive registration of a teacher. However the conditions will not be more onerous than those imposed in relation to similar (non-mutual recognition) situations. Conditions may also be imposed on the deemed or substantive registration which correspond to and reflect conditions on the teacher's registration in the first state. In addition, conditions may be imposed which are determined to be necessary to ensure that the teaching activities undertaken in Western Australia reflect and equate to the authorised teaching activities in the first state.

Section 24 of the *Mutual Recognition Act 1992* and section 23 of the *Trans-Tasman Mutual Recognition Act 1997* require the TRBWA to give a person notice in writing of its decision to impose conditions on the grant of substantive registration. The notice must include a statement that a person may apply to the Administrative Appeals Tribunal for a review of the decision to impose conditions.

Conditions imposed by the TRBWA in mutual recognition circumstances are imposed under relevant mutual recognition legislation. There is no specific requirement under mutual recognition legislation to provide an opportunity to show cause why a condition should not be imposed. However to reflect good administrative practice the Board will provide this opportunity prior to imposing a condition. The legislation also requires a written notice of the decision as stated above to be sent to the teacher.

4.8 Compliance with conditions of registration

Under section 8 of the Act, it is an offence for a registered teacher to contravene a condition to which the teacher's registration is subject. A person's history of compliance with conditions of registration is also a relevant factor in fit and proper considerations. Contravention of conditions also constitutes a disciplinary matter under the Act.

5. Supporting information

- *Teacher Registration Act 2012*
- *Mutual Recognition Act 1992*

- *Trans-Tasman Mutual Recognition Act 1997*
- *Mutual Recognition Policy*
- *Making of an Application for Registration Policy*

6. Change History

Approved	Version	Details	Approved By
19/6/2013	1	New Policy Issued	Board
16/7/2013	2	Amendment at July Board meeting	Board
Next Review Date		19/6/2015	