

## Teaching Unregistered Policy

### 1. Purpose

This policy outlines the approach to be applied by the Teacher Registration Board of Western Australia (TRBWA) when dealing with occurrences of unregistered teachers teaching in educational venues in Western Australia.

### 2. Scope

This policy applies to all teachers teaching in educational venues in Western Australia and employers of these teachers.

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

### 3. Background

Part 2 of the *Teacher Registration Act 2012* (Act) details the requirements for any person teaching in an educational venue in Western Australia to be registered and the related offences for teaching by unregistered persons.

Section 6 of the Act makes it a requirement that:

A person must not teach in an educational venue unless the person is a registered teacher.

Penalty:

- (a) for a first offence, a fine of \$5,000
- (b) for a second or subsequent offence, a fine of \$10,000.

Employers of teachers must only employ teachers who are registered. Under s 7(1) of the Act:

A person must not appoint, employ, engage or give permission to another person to teach in an education venue unless the other person is a registered teacher.

Penalty:

- (a) for a first offence, a fine of \$5,000
- (b) for a second or subsequent offence, a fine of \$10,000.

In addition to the requirement for teachers teaching in educational venues to be registered, s 9 of the Act also provides for offences for anyone who pretends to be registered or entitled to teach.

- (1) A person who is not a registered teacher must not —
  - (a) claim to be a registered teacher; or
  - (b) claim to be qualified or entitled to teach in an educational venue.
  
- (2) Without limiting subsection (1), a person who is not a registered teacher must not —
  - (a) take or use the title of registered teacher or any other title calculated to induce a belief that the person is registered under this Act; or
  - (b) claim to be registered, or hold himself or herself out as being registered, under this Act; or
  - (c) claim to be entitled to practise as a teacher; or

- (d) use a title that indicates, or could reasonably be understood as indicating, that he or she is a registered teacher or qualified or entitled to teach in an educational venue.

In undertaking its regulatory role the TRBWA is required, under s 5 of the Act, to regard the best interests of children as the paramount consideration.

#### 4. Definitions

Teach	as defined in s 3 of the Act, means to undertake duties in an educational venue that include: <ul style="list-style-type: none"><li>(a) The delivery of an educational programme designed to implement a prescribed curriculum and the assessment of student participation in such an educational programme; or</li><li>(b) The administration of any such educational programme.</li></ul>
Educational venue	as defined in s 3 of the Act, means any of the following: <ul style="list-style-type: none"><li>(a) a school as defined in s 4 of the <i>School Education Act 1999</i><sup>1</sup></li><li>(b) a kindergarten registered under Part 5 of the <i>School Education Act 1999</i><sup>2</sup></li><li>(c) a child care centre<sup>3</sup></li><li>(d) a detention centre<sup>4</sup></li><li>(e) any other place prescribed as an educational venue. As at 7 December 2012, places where centre-based services operate were prescribed as educational venues.<sup>5</sup></li></ul>
Employer	as defined in s 3 of the Act, in relation to a registered teacher, means the person or entity who engaged, employed or appointed the teacher, or gave the teacher permission to teacher, in an educational venue.

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<sup>1</sup> A school means a government school or a non-government school.

<sup>2</sup> A kindergarten pursuant to Part 5 of the *School Education Act 1999* is a community kindergarten.

<sup>3</sup> Child care centre means a place where a child care service is provided as defined in s 4 of the *Child Care Services Act 2007* (CCS Act). The CCS Act, s 4, defines for the purposes of the CCS Act, a child care service as a service providing or intended to provide education and care on a regular basis to children under 13 years of age (or such other age as may be prescribed for the purposes of this section) that –

(a) is not an education and care service under the national child care law; and

(b) is prescribed for the purposes of the CCS Act as a type of service to which the CCS Act applies.

Pursuant to regulation 6(2) of the *Child Care Services (Child Care) Regulations 2006*, for the purposes of s 4(b) of the CCS Act, the services described in the *Education and Care Services National Regulations 2012* regulation 5(2)(c), (h) and (k) are prescribed as types of services to which the CCS Act applies. These are as follows:

(c) a service providing education and care to children primarily on an ad hoc or casual basis where –

(i) the service does not usually offer full-time or all day education and care to children on an ongoing basis; and

(ii) most of the children provided with education and care are preschool age or under;

(h) a service providing education and care primarily to children preschool age or under that transports its equipment and materials or staff to one or more locations on each occasion that the service is provided;

(k) a service providing education and care that receives financial assistance under the Budget Based Funding Program element of the Child Care Services Support Program and is not a service that receives the Child Care Benefit in relation to the provision of education and care.

<sup>4</sup> Detention centre has the meaning given in s 3 of the *Young Offenders Act 1994*.

<sup>5</sup> Pursuant to regulation 5 of the *Teacher Registration (General) Regulations 2012*, a place where a centre-based service, as defined in the *Education and Care Services National Regulations 2012* regulation 4(1), operates, is an educational venue. Centre based service means an education and care service other than a family day care service. For teacher registration, this essentially means long day care and regular occasional care.

## 5. Policy

### 5.1 Registered teacher obligations

For teachers to be entitled to teach in an educational venue in Western Australia they firstly must be registered with the TRBWA.

To continue to teach in an educational venue in Western Australia, a teacher must maintain their teacher registration to ensure registration is continuous, which among other things, includes the payment of an annual fee by 31 March each year and the submission of an application for renewal of registration or transition to another category of registration more than 28 days prior to expiry of their current registration.

A teacher is to notify both their employer and the TRBWA immediately they become aware that they are teaching in an educational venue in Western Australia and are not registered to do so.

### 5.2 Employer obligations

Any person responsible for the employment or engagement of teachers to teach in educational venues in Western Australia has a legislated obligation to employ only those teachers who are registered with the Teacher Registration Board of Western Australia.

It is an offence to employ, appoint, engage or give permission to an unregistered person to teach in an educational venue in Western Australia. In addition, it is also an offence to allow a registered teacher to teach in contravention of a condition on their registration.

An employer is to notify the TRBWA immediately the employer becomes aware that a teacher teaching at their educational venue is doing so whilst not registered.

### 5.3 Identification of unregistered teaching and immediate action

The TRBWA will treat any information or notification received from either a teacher or employer in relation to a teacher teaching whilst not registered as a matter of priority. Immediate contact is to be made with the educational venue or employer, as is most appropriate, to establish circumstances of the matter.

In those circumstances where it is identified that the unregistered teacher is currently teaching, the employer must take immediate steps to ensure that the teacher is not teaching unlawfully.

The TRBWA recognises that whilst continuity of teaching is critical for employers and educational venues, the paramount consideration, in the best interests of children, is to ensure that only registered teachers are teaching in educational venues. The TRBWA will, however, work with employers to deal with occurrences of unregistered teaching promptly and with as minimal disruption to children and the educational venue as is practicable.

Teachers may be returned to the teaching lawfully and immediately through the provisions of s 23(3) of the Act on the submission of a notice of intention to make an application for the grant of Limited Registration. The prescribed form, *Form 1 – Notice of intention to apply for limited registration* is to be submitted to the TRBWA on or before the first day of teaching and must be followed by the making of an application for Limited Registration within 5 days after giving notice to the TRBWA. Should an application for Limited Registration not be made within 5 days after giving notice to the TRBWA, the teacher will be taken to be teaching whilst unregistered.

### 5.4 TRBWA follow up response to unregistered teaching

All cases of unregistered teaching will cause an immediate action and follow up response from the TRBWA.

Following the initial action including dealing with the immediate matter, the TRBWA will follow up with each case of unregistered teaching to determine an appropriate response to the matter in terms of non-compliance with the Act and consideration of the related offences under the Act.

The TRBWA will review the circumstances and substance of the matter and risk posed to determine an appropriate and proportionate action. Considerations to be taken into account may include:

- whether the teacher was previously registered
- if registered, total period of registration
- history of registration including whether they had been unregistered previously
- reason for being unregistered
- period(s) of teaching unregistered
- responsiveness to becoming registered (teacher) and ensuring the teacher becomes registered (employer)
- employer’s history of employing unregistered teachers
- has the employer/educational venue been proactive in identifying cases of unregistered teaching – e.g. through conducting audits or use of the Teacher Register Information (Professional)

## 6. Supporting information

- *Teacher Registration Act 2012*
- *Teacher Registration (General) Regulations 2012*
- Making of an application policy
- Record of unregistered teaching

## 7. Change History

Approved	Version	Details	Approved By
9/7/2014	1	New Policy Issued	Board
Next Review Date		9/7/2017	