



Queensland

# **Education and Training Legislation Amendment Act 2010**

**Act No. 50 of 2010**





## Queensland

# Education and Training Legislation Amendment Act 2010

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## **Education and Training Legislation Amendment Act 2010**

**Act No. 50 of 2010**

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**An Act to amend the Child Care Act 2002, the Education (General Provisions) Act 2006 and the Vocational Education, Training and Employment Act 2000 for particular purposes**

**[Assented to 5 November 2010]**

[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Education and Training Legislation Amendment Act 2010*.

## **Part 2 Amendment of Child Care Act 2002**

### **2 Act amended**

This part amends the *Child Care Act 2002*.

### **3 Amendment of s 87 (Confidentiality of records)**

(1) Section 87(3)—

*insert—*

‘(da) under part 9, division 3, subdivision 2; or’.

(2) Section 87(3)(da) and (e)—

*renumber* as section 87(3)(e) and (f).

### **4 Insertion of new pt 9, div 3, sdiv 1 hdg**

Part 9, division 3, before section 167—

*insert—*

**‘Subdivision 1 Requirements for persons involved  
in administering this Act’.**

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**5 Insertion of new pt 9, div 3, sdiv 2**

Part 9, division 3, after section 170—

*insert—*

**‘Subdivision 2 Use and disclosure of URL data relating to approved kindergarten programs**

**‘170A Definitions for sdiv 2**

‘In this subdivision—

*approved kindergarten program* means a program provided by a licensed centre based service for which the service receives kindergarten program funding from the department or a central governing body.

*authorised officer*, of a central governing body, means an employee or officer of the central governing body who is authorised in writing by the chief executive to receive, use and disclose URL data for the purposes of this subdivision.

*central governing body* means an entity, prescribed under a regulation, that receives funding from the department for an approved kindergarten program provided by 1 or more relevant services to which the entity provides all or part of the funding.

*disability* includes a condition attributable to—

- (a) a physical, intellectual, hearing, vision or speech–language impairment, or a developmental delay; or
- (b) an autistic spectrum disorder; or
- (c) a combination of impairments mentioned in paragraph (a), a developmental delay or an autistic spectrum disorder.

*relevant service* means a licensed centre based service that provides an approved kindergarten program.

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**URL data** means—

- (a) the following information about a child who is enrolled at a relevant service in an approved kindergarten program—
  - (i) the child’s name, date of birth and gender;
  - (ii) the address of the child’s primary residence;
  - (iii) whether the child identifies, or has a parent or guardian who identifies, as being of Aboriginal or Torres Strait Islander descent;
  - (iv) if the primary language of the child, or, if the child has not learned to speak, the child’s family, is not English—the primary language of the child or the child’s family;
  - (v) whether the child, or a parent or guardian of the child, holds a health care card under the *Social Security Act 1991* (Cwlth);
  - (vi) whether the child—
    - (A) has been diagnosed by a health practitioner as having, or is suspected by a health practitioner of having, a disability or long-term medical condition; and
    - (B) needs additional assistance because of the disability or medical condition;
  - (vii) the number of hours for which the child attended an approved kindergarten program during a particular period; or
- (b) the following information about a staff member of a relevant service who delivers an approved kindergarten program—
  - (i) the staff member’s name;
  - (ii) for a qualification in early childhood studies or child care studies held by the staff member—
    - (A) the name of the qualification; and



- 
- (B) the date on which the qualification was issued; and
  - (C) the institution that issued the qualification;
  - (iii) whether the staff member holds full registration or provisional registration under the *Education (Queensland College of Teachers) Act 2005* and, if so, the staff member's identification number under that Act;
  - (iv) whether the staff member identifies as being of Aboriginal or Torres Strait Islander descent;
  - (v) if the primary language of the staff member is not English—the primary language of the staff member; or
  - (c) other information about a child or staff member mentioned in paragraph (a) or (b) that is prescribed under a regulation.

#### **'170B Disclosure of URL data to chief executive and central governing bodies by relevant services**

- '(1) An authorised person for a relevant service may disclose URL data to—
  - (a) for a CGB service—an authorised officer of the central governing body; or
  - (b) for another relevant service—the chief executive.
- '(2) An authorised officer of a central governing body may disclose URL data received under this section to the chief executive.
- '(3) In this section—

*authorised person*, for a relevant service, means the following—

  - (a) the licensee of the relevant service;
  - (b) a staff member of the relevant service;

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- (c) an employee of the licensee of the relevant service who administers URL data in the course of performing the employee's duties.

***CGB service*** means a relevant service that—

- (a) receives funding from a central governing body for an approved kindergarten program; and
- (b) has been directed in writing by the central governing body to disclose URL data to it for the purpose of this section.

#### **'170C Use and disclosure of URL data by chief executive**

- '(1) The chief executive may use URL data received under this subdivision for the following purposes—
  - (a) quality assuring of funding provided to relevant services and central governing bodies for approved kindergarten programs;
  - (b) planning for, monitoring of outcomes of, and reporting on, early childhood initiatives;
  - (c) preparing the data for disclosure under section 170D.
- '(2) For the purpose of subsection (1)(a), the chief executive may disclose URL data, including URL data that has been aggregated, to an authorised officer of a central governing body.
- '(3) For subsection (1)(b), URL data may be reported only if it has been aggregated and does not identify, directly or indirectly, any person to whom it relates.

#### **'170D Disclosure of URL data to Australian Bureau of Statistics and Australian Institute of Health and Welfare**

- '(1) The chief executive may disclose URL data to a prescribed entity for the purpose of meeting Queensland's obligations under the early childhood data agreement.

‘(2) A prescribed entity that receives URL data under this section must ensure the data is collected, stored and used in a way that ensures the privacy of the persons to whom it relates is protected.

‘(3) In this section—

*early childhood data agreement* means the agreement between the Commonwealth and the States called the ‘National information agreement on early childhood education and care’, signed on behalf of the Queensland Government by the chief executive on 19 February 2010.

*prescribed entity* means—

- (a) the Australian Bureau of Statistics; or
- (b) the Australian Institute of Health and Welfare established under the *Australian Institute of Health and Welfare Act 1987* (Cwlth).

#### **‘170E Recording, use and disclosure of URL data by authorised officer of central governing body**

‘(1) An authorised officer of a central governing body may use URL data received under this subdivision for the following purposes—

- (a) quality assuring and distributing funding received from the department for approved kindergarten programs;
- (b) planning, developing and implementing services for children, parents and guardians;
- (c) planning, developing and implementing professional development programs for staff members of relevant services;
- (d) implementing curriculum development initiatives;
- (e) reporting on the central governing body’s performance.

‘(2) For subsection (1)(e), URL data may be reported only if it has been aggregated and does not identify, directly or indirectly, any person to whom it relates.

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- ‘(3) A person who is or has been an authorised officer of a central governing body and who receives or received URL data under this subdivision must not—
- (a) record or use the data, or intentionally disclose the data to anyone, other than under this section or section 170B(2); or
  - (b) recklessly disclose the data to anyone.
- Maximum penalty—100 penalty units.’.

## 6 Amendment of sch 2 (Dictionary)

Schedule 2—

*insert—*

***‘approved kindergarten program***, for part 9, division 3, subdivision 2, see section 170A.

***authorised officer***, for part 9, division 3, subdivision 2, see section 170A.

***central governing body***, for part 9, division 3, subdivision 2, see section 170A.

***disability***, for part 9, division 3, subdivision 2, see section 170A.

***relevant service***, for part 9, division 3, subdivision 2, see section 170A.

***URL data***, for part 9, division 3, subdivision 2, see section 170A.’.



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## **‘Division 1A            Exclusion of students by principals**

### **‘288A Principal’s power to exclude student**

‘The principal of a State school at which a student is enrolled may, under this division, exclude the student from the school if the principal is satisfied a ground mentioned in section 288B exists.

*Note—*

The principal may, at any time before or after the student is excluded from the school, also recommend to the principal’s supervisor that the student be excluded from certain other State schools under division 2.

### **‘288B Grounds for exclusion of student by principal**

‘(1) Each of the following is a ground for excluding a student, under this division, from a State school at which the student is enrolled—

- (a) disobedience by the student;
- (b) misconduct of the student;
- (c) other conduct of the student that is prejudicial to the good order and management of the school;

if the disobedience, misconduct or other conduct is so serious that suspension of the student from the school is inadequate to deal with the behaviour.

‘(2) Also, a student may be excluded, under this division, from a State school at which the student is enrolled because of the student’s contravention of a behaviour improvement condition, for the student’s challenging behaviour, imposed or agreed to under division 8.

### **‘288C Notice proposing exclusion and suspension pending final decision about exclusion**

‘(1) This section applies if the principal of a State school at which a student is enrolled—

- 
- (a) is reasonably satisfied grounds exist to exclude the student from the school; and
  - (b) does not reasonably believe it would be inappropriate for the principal to make a decision to exclude the student from the school.

*Example—*

It would be inappropriate for the principal to make a decision to exclude the student from the school if the principal would be prevented from doing so by the principles of natural justice relating to bias.

*Note—*

If the principal can not act under this division because of subsection (1)(b), the principal may make a recommendation to the principal's supervisor under division 2 that the student be excluded from the school.

- '(2) The principal must—
  - (a) give the student a notice (the ***notice proposing exclusion***) about the proposed exclusion of the student from the school; and
  - (b) suspend the student from the school pending a final decision about the proposed exclusion.
- '(3) The notice proposing exclusion must state each of the following—
  - (a) the principal proposes to exclude the student from the school for a stated period of not more than 1 year or permanently;
  - (b) the student is suspended from the school until a final decision is made by the principal about the proposed exclusion;
  - (c) the reason for the proposed exclusion;
  - (d) the student may make a submission to the principal against the proposed exclusion and suspension no later than 5 school days after the student is given the notice or within the longer period allowed by the principal under section 288E(4);

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- (e) the title, name and address of the principal;
  - (f) the way in which the submission may be made.
- ‘(4) If the student is a child, as soon as practicable after giving the student the notice proposing exclusion, the principal must take reasonable steps to meet with a parent of the student to discuss the student’s behaviour that led to the giving of the notice.
- ‘(5) Subsection (4) does not apply if the principal is satisfied it would be inappropriate in the circumstances to meet with a parent of the student to discuss the student’s behaviour that led to the giving of the notice.

*Example—*

It may be inappropriate to meet with a parent of the student to discuss the student’s behaviour that led to the giving of the notice if the student is living independently of his or her parents.

- ‘(6) If subsection (5) applies—
- (a) the principal must take reasonable steps to meet with the student to discuss the student’s behaviour that led to the giving of the notice; and
  - (b) the student may be accompanied by an adult during the meeting.

### **‘288D Continuing education during suspension**

‘If the principal suspends the student from the school under section 288C, the principal must arrange for the student’s access to an educational program that allows the student to continue with the student’s education during the suspension.

### **‘288E Submissions against proposed exclusion and suspension**

- ‘(1) The student may make a submission against the proposed exclusion and suspension of the student from the school in the way stated in the notice proposing exclusion given to the student.



- 
- ‘(2) The submission must—
- (a) be made to the principal no later than 5 school days after the student is given the notice proposing exclusion; and
  - (b) state fully the grounds for the submission and the facts relied on.
- ‘(3) Subsection (4) applies if, within 5 school days after the student is given the notice, the student or another person who may make a submission in relation to the notice asks the principal for a longer period to make the submission.

*Note—*

If the student is a child, a parent of the child may make a submission in relation to the notice—see section 331.

- ‘(4) The principal may, by notice given to the student or other person, state a longer period allowed for submissions.

### **‘288F Exclusion of student by principal**

- ‘(1) This section applies if—
- (a) the period of 5 school days after the day the student was given the notice proposing exclusion, or the longer period allowed by the principal under section 288E(4), has expired; and
  - (b) the principal has considered any submissions made under section 288E; and
  - (c) the principal is reasonably satisfied a ground exists to exclude the student from the school.
- ‘(2) The principal must, no later than 20 school days after the day the student was given the notice proposing exclusion, exclude the student from the school for a period of not more than 1 year or permanently.
- ‘(3) If the principal decides to exclude the student from the school, the principal must give the student a notice stating each of the following—

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- (a) the student is excluded from the school for a stated period of not more than 1 year or permanently;
  - (b) the reason for the exclusion;
  - (c) the student may make a submission to the chief executive asking the chief executive to review the decision under division 5;
  - (d) the title, name and address of the chief executive;
  - (e) the way in which the submission may be made.
- ‘(4) The principal may not decide to exclude the student from the school for a period longer than the period of the proposed exclusion stated in the notice proposing exclusion given to the student.

#### **‘288G Decision not to exclude student**

- ‘(1) If the principal decides not to exclude the student from the school, the principal must—
- (a) as soon as practicable, tell the student—
    - (i) about the decision; and
    - (ii) that the suspension has ended and the student may resume attendance at the school; and
  - (b) within 7 days after telling the student about the decision—give the student notice about the decision and the reasons for the decision.
- ‘(2) If the principal decides not to exclude the student from the school on the ground mentioned in section 288B(2), the student’s resumed attendance at the school remains subject to the student complying with the relevant behaviour improvement condition for the student’s challenging behaviour.

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**‘288H Effect of exclusion on enrolment**

‘If a student is excluded under this division from a State school at which the student is enrolled, the enrolment is taken to be cancelled.’.

**12 Amendment of s 290 (Suspension pending dealing with recommendation for exclusion)**

- (1) Section 290, heading—  
*omit, insert—*

**‘290 Recommendation for exclusion and suspension pending final decision about recommendation’.**

- (2) Section 290(1), from ‘from’—  
*omit, insert—*

‘from—

- (a) if division 1A does not apply because of section 288C(1)(b)—the State school at which the student is enrolled; or  
(b) certain State schools.’.

- (3) Section 290(2)(b)—  
*omit, insert—*

‘(b) if the student is enrolled at the school—suspend the student from the school pending the supervisor’s decision about the recommendation.’.

- (4) Section 290—  
*insert—*

‘(2A) Without limiting this section, the principal may make a recommendation under subsection (2)(a) that a previously excluded student be excluded from certain other State schools for a stated period of not more than 1 year or permanently.’.

- (5) Section 290(3)(b)—  
*omit, insert—*

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‘(b) if the student is suspended from the school at which the student is enrolled—the student is suspended from the school pending the supervisor’s decision about the recommendation; and’.

(6) Section 290(3)(c), ‘the suspension and recommendation for exclusion’—

*omit, insert—*

‘the recommendation for exclusion and, if applicable, the suspension’.

(7) Section 290—

*insert—*

‘(8) In this section—

*previously excluded student* means a student who—

(a) is excluded from the school under division 1A or this division; and

(b) was enrolled at the school immediately before the exclusion.’.

### **13 Amendment of s 292 (Submissions against suspension and recommendation for exclusion)**

(1) Section 292, heading—

*omit, insert—*

### **‘292 Submissions against recommendation for exclusion and suspension’.**

(2) Section 292(1), ‘the suspension and recommendation for exclusion’—

*omit, insert—*

‘the recommendation for exclusion and, if applicable, the suspension’.

(3) Section 292(3)—

*insert—*

*Note—*

If the student is a child, a parent of the child may make a submission in relation to the notice—see section 331.’.

**14 Amendment of s 293 (Exclusion of student by principal’s supervisor)**

Section 293(1)(b)(i), ‘the suspension and recommendation for exclusion’—

*omit, insert—*

‘the recommendation for exclusion and, if applicable, the suspension’.

**15 Amendment of s 294 (Decision not to exclude student)**

(1) Section 294(1) and (2)(a)(ii), ‘resume attendance at’—

*omit, insert—*

‘attend’.

(2) Section 294(2)(a)(ii), after ‘suspension’—

*insert—*

‘, if applicable,’.

**16 Amendment of s 311 (Application of div 5)**

Section 311, after ‘section’—

*insert—*

‘288F’.

**17 Amendment of s 312 (Submission against exclusion decision)**

Section 312(2)(a), after ‘section’—

*insert—*

‘288F’.

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**18 Amendment of s 313 (Dealing with submissions against exclusions)**

Section 313(2), after ‘section’—

*insert—*

‘288F’.

**19 Amendment of s 314 (Periodic review of decision to exclude permanently on ground mentioned in s 289 or 298—person under 17 years)**

(1) Section 314, heading, after ‘in s’—

*insert—*

‘**288B**’.

(2) Section 314(1), before paragraph (a)—

*insert—*

‘(aa) a person under 17 years who is excluded permanently from a State school at which the person was enrolled immediately before the exclusion on a ground mentioned in section 288B(1) or (2); or’.

(3) Section 314(1)(aa) to (c)—

*renumber* as section 314(1)(a) to (d).

(4) Section 314(7)(a), after ‘section’—

*insert—*

‘288B(1) or’.

(5) Section 314(7)(b), after ‘section’—

*insert—*

‘288B(2) or’.

**20 Amendment of s 315 (Periodic review of decision to exclude permanently on ground mentioned in s 289 or 298—person aged from 17 to 24 years)**

(1) Section 315, heading, after ‘in s’—

*insert—*

**‘288B,’.**

- (2) Section 315(1), before paragraph (a)—

*insert—*

‘(aa) a person aged from 17 to 24 years who is excluded permanently from a State school at which the person was enrolled immediately before the exclusion on a ground mentioned in section 288B(1) or (2); or’.

- (3) Section 315(1)(aa) to (c)—

*renumber* as section 315(1)(a) to (d).

- (4) Section 315(5)(a), after ‘section’—

*insert—*

‘288B(1) or’.

- (5) Section 315(5)(b), after ‘section’—

*insert—*

‘288B(2) or’.

**21 Amendment of s 324 (Imposition of behaviour improvement condition by principal)**

Section 324(1), from ‘basis for’—

*omit, insert—*

‘basis for—

- (a) a ground for excluding the student from the school mentioned in section 288B(1); or  
(b) a ground for excluding the student from the school or certain State schools mentioned in section 289(1).’.

**22 Amendment of s 331 (Submissions, representations or applications about suspensions etc.)**

Section 331(1)—

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*omit, insert—*

- ‘(1) This section applies if—
- (a) under a provision of this part, a student or prospective student may make a submission, representations or an application in relation to any of the following—
    - (i) a suspension under division 1;
    - (ii) a proposed exclusion and suspension under division 1A;
    - (iii) a recommendation for exclusion and, if applicable, suspension under division 2;
    - (iv) an exclusion or a cancellation of enrolment;
    - (v) a behaviour improvement condition under division 8; and
  - (b) the student or prospective student is a child.’

## **23 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4—

*insert—*

‘***notice proposing exclusion*** see section 288C(2)(a).’

- (2) Schedule 4, definition *external program*, paragraph (a), after ‘286(2)’—

*insert—*

‘, 288D’.





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- (b) qualifications;
- (c) courses relating to vocational education and training;
- (d) units of competency;
- (e) registered training organisations.’.

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