

Record number: 19/420518  
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8 October 2019

Dear Chairperson

The Non-State Schools Accreditation Board is writing to all non-State school governing bodies to ensure they are aware of a number of important legislative matters that potentially impact on them or on non-State schools under their governance.

The matters relate to:

- the *Crime and Corruption Act 2001*;
- the *Public Interest Disclosure Act 2010*; and
- the *Human Rights Act 2019*.

***Crime and Corruption Act 2001 (the “CC Act”)***

Effective 1 March 2019, the CC Act was amended to widen the definition of ‘corrupt conduct’ to include, in certain prescribed circumstances, the conduct of any person (regardless of whether the person holds or held an appointment in a unit of public administration, such as a department of Government or the police service).

This amendment extends the jurisdiction of Queensland’s Crime and Corruption Commission into the operations of non-State schools and their governing bodies if certain prescribed circumstances are met (see CC Act, especially sections 15, 38 and 39).

Conduct may be corrupt conduct in connection with a non-State school if it:

- (a) impairs, or could impair, public confidence in public administration; and
- (b) involves, or could involve, any of the following:
  - (i) collusive tendering;
  - (ii) fraud relating to an application for a licence, permit or other authority under an Act with a purpose or object of any of the following (however described): (A) protecting health or safety of persons; (B) protecting the environment; (C) protecting or managing the use of the State’s natural, cultural, mining or energy resources;
  - (iii) dishonestly obtaining, or helping someone to dishonestly obtain, a benefit from the payment or application of public funds or the disposition of State assets;
  - (iv) evading a State tax, levy or duty or otherwise fraudulently causing a loss of State revenue;
  - (v) fraudulently obtaining or retaining an appointment; and
- (c) would, if proved, be:
  - (i) a criminal offence; or
  - (ii) a disciplinary breach providing reasonable grounds for terminating the person’s services, if the person is or were the holder of an appointment in a unit of public administration.

The CC Act places a strict obligation on the Board to notify the Commission if there is a reasonable suspicion of corrupt conduct. The confidentiality requirements of this Act are such that the Board is unable to advise a non-State school's governing body if such a notification has been made.

### **Public Interest Disclosure Act 2010 (the "PID Act")**

The main objects of the PID Act are: (a) to ensure that a public interest disclosure ("PID") is properly assessed and properly investigated and dealt with; (b) to ensure that appropriate consideration is given to the interests of persons who are the subject of a PID; and (c) to afford protection from reprisals to persons making a PID.

Effective 1 March 2019, the Office of the Ombudsman established under the *Ombudsman Act 2001* as the oversight agency for the PID Act, made *PID Standard No. 1/2019 (Public Interest Disclosure Management Program)*, *PID Standard No. 2/2019 (Assessing, Investigating and Dealing with Public Interest Disclosures)*, and *PID Standard No. 3/2019 (Public Interest Disclosure Data Recording and Reporting)*. These new standards involve certain new obligations for the Board.

Accordingly, on 7 March 2019, the Board made and published on its website: *Reasonable procedures to deal with public interest disclosures, PID Act, s 28*.

From time-to-time, the Board receives information from a discloser about the operations of a non-State school or its governing body that satisfies the conditions prescribed by the PID Act, and is therefore classified and treated as a PID (see PID Act, especially sections 12 and 13).

The PID Act provides disclosers with certain protections, including immunity from liability and reprisal for making a disclosure (see PID Act, especially chapter 4, part 1).

The Board will take appropriate steps to help protect the discloser from reprisal action.

### **Human Rights Act 2019 (the "HR Act")**

The HR Act (assent 7 March 2019) applies to all public entities. The Board is a public entity.

The main objects of the HR Act include helping to build a culture in the Queensland public sector that respects and promotes human rights, and protecting and promoting human rights.

From 1 July 2019, the Anti-Discrimination Commission Queensland was renamed the Queensland Human Rights Commission, and was given a range of functions related to human rights, including: (a) dealing with human rights complaints; (b) promoting an understanding and acceptance, and the public discussion, of human rights and the HR Act in Queensland; and (c) from 1 January 2020 — reviewing public entities' policies, programs, procedures, practices and services in relation to their compatibility with human rights.

The HR Act protects 23 human rights and is expected to commence in its entirety on 1 January 2020.

The Board is presently reviewing its policies, programs, procedures, practices and services to ensure compatibility with the HR Act by 1 January 2020.

For further information see:

Queensland Government legislation website	<a href="http://www.legislation.qld.gov.au">www.legislation.qld.gov.au</a>
Crime and Corruption Commission website	<a href="http://www.ccc.qld.gov.au">www.ccc.qld.gov.au</a>
Queensland Ombudsman website	<a href="http://www.ombudsman.qld.gov.au">www.ombudsman.qld.gov.au</a>
Board website	<a href="http://www.nssab.qld.edu.au">www.nssab.qld.edu.au</a>
Queensland Human Rights Commission website	<a href="http://www.qhrc.qld.gov.au">www.qhrc.qld.gov.au</a>

Members of the Board trust that this information is useful to the directors of the governing body.

Yours sincerely



**Lynne Foley OAM**  
Chairperson