

Professional Conduct: Employer Obligations

Sections 67A, 72, 78 of the *Teacher Registration (Northern Territory) Act*

TEACHER REGISTRATION (NORTHERN TERRITORY) ACT

The objective of the [Teacher Registration \(Northern Territory\) Act](#) ('the Act') is to ensure that only persons who are fit and proper, appropriately qualified and competent to teach, are employed as teachers in the Territory.

The objective is achieved by the establishment of the Teacher Registration Board of the Northern Territory ('the Board') to register persons as teachers and to facilitate the continuing competence of teachers in the Territory.

Employer obligations under the Act assist the Board to ensure that only people who are fit and proper and competent to teach are registered as teachers in the Territory.

Employer obligations include to:

- Only employ registered teachers to teach in a school in the Territory (unless an employer has been granted an authorisation).
- Provide an annual return by the end of the first term in each school year.
- Notify the Board under section 67A of the Act when certain events occur.

OFFENCE TO EMPLOY UNREGISTERED PERSON TO TEACH IN A SCHOOL

Sections 72 and 73 of the Act provide that it is an offence to teach, or to employ a person to teach, in a school in the Territory unless:

- the person is a registered teacher; or
- the employer has been granted an authorisation under the Act

The penalty is 50 penalty units (2017/18 \$7 700).

Before commencing employment in a school a teacher should be requested to provide a copy of their registration certificate which will set out if the teacher has conditions imposed on their registration by the Board. Conditions imposed on registration are not available on the public register and can only be verified by sighting the registration certificate.

A person's teacher registration status should also be verified by the employer at the commencement of employment and prior to the commencement of each school year by checking the [register of teachers](#).

Principals may access a printable list of all currently registered teachers employed at their school by

logging on to their [TRB online services](#) and then clicking on the school audit tab at the top of the page.

Applications to employ a person under an authorisation can be made by completing [Form C: Application to apply an Unregistered Person](#).

MONITORING COMPLIANCE - ANNUAL RETURN

To monitor compliance with the Act employers are contacted by the Office of the Board at the end of term one of each school year and requested to provide information in relation to who has taught at the employer's school pursuant to section 78 of the Act. It is an offence not to comply with the Board's written notice requiring that information be provided.

EMPLOYER OBLIGATION TO NOTIFY BOARD

Under section 67A of the Act an employer who employs a teacher or authorised person ("relevant person"), as a teacher, is required to notify the Board, if any of the following events occur:

- the employer dismisses a relevant person;
- a relevant person resigns or otherwise leaves the employment of the employer, in circumstances that call into question the person's competence or fitness to teach;
- the employer takes any action against a relevant person in relation to his or her serious misconduct, or lack of competence or fitness to teach.

Notice should be provided in writing, within 28 days after the event has occurred and must specify full details of the event and the circumstances involved. Failure to comply with section 67A of the Act may result in a penalty. The maximum penalty is 50 penalty units (2017/18 \$7 700).

THE TEACHER IS DISMISSED

If you dismiss a teacher from employment for any reason you must notify the Board, The Board will then consider exercising its powers to investigate the concerns raised.

THE TEACHER RESIGNS OR OTHERWISE LEAVES YOUR EMPLOYMENT

In the interests of public protection of all students, you must notify the Board if:

- there are circumstances that call into question the teacher's competence or fitness to teach; and
- the teacher leaves your employment before any action is taken (i.e. through resignation, mutual agreement or the expiration of a short-term contract).

YOU TAKE ANY ACTION AGAINST THE TEACHER

You need to notify the Board if you have taken any action against a teacher in relation to:

- Serious misconduct
- Lack of competence to teach
- Fitness to teach

You should only notify the Board of action taken against a teacher:

- once your investigation is finalised; and
- you have taken action in relation to findings of serious misconduct, lack of competence to teach or fitness to teach. For example:
 - a formal warning or reprimand
 - an order to undertake training or counselling
 - a reduction in benefits or entitlements
 - a financial penalty

OR

- suspension of employment or removal from teaching duties (with or without pay).

SERIOUS MISCONDUCT

Misconduct is the conduct of a teacher occurring in connection with the practice of teaching that is of a lesser standard than a member of the public, or members of the teaching profession are entitled to expect from a reasonably proficient teacher.

Serious misconduct generally involves a substantial departure from the accepted standards of the profession.

LACK OF COMPETENCE

Teachers are required to achieve and maintain an acceptable level of competence in their practice. Serious lack of competence refers to a situation where a teacher is failing to meet the [Australian Professional Standards for Teachers](#) ('the Standards') to such a degree that their whole approach to teaching:

- is fundamentally flawed; or
- defeats the cause of imparting knowledge to students.

Teachers holding Full Registration are assessed against the proficient career stage and teachers holding Provisional Registration are assessed against the graduate career stage of the Standards.

FITNESS TO TEACH

Fitness to teach is defined as whether the character, reputation and conduct of a person are such that a person should be allowed to teach children. A teacher's behaviour, whether in the practice of teaching or in their private lives, may demonstrate qualities of a kind that indicate that person is not fit to practice as a teacher. Matters that may call into question a teacher's fitness to teach may include:

- Criminal history.
- Behaviour that does not meet the standard of behaviour reasonably expected of a teacher.

- Behaviour not in accordance with the [Code of Ethics for Northern Territory Teachers](#) or other [guidelines](#) published by the Board.
- Behaviour that shows the teacher is not of good character.
- Other relevant matters such as an impairment, condition or disorder including substance abuse or dependence.

HOW DO I NOTIFY THE BOARD?

The [Employer Notification Form](#) should be used by an employer to notify the Board and submitted by email to: trbcomplaints.det@nt.gov.au

Please complete all questions in this form to provide the Board with enough information to decide if a preliminary investigation or inquiry is warranted. Further information may be requested by the Office of the Board. If you need to notify about more than one registered teacher, please complete a separate form for each individual teacher.

PROTECTION FROM LIABILITY

Section 76A of the Act states that a person cannot be civilly or criminally liable for giving information to the Board if that person is acting in good faith.

WHAT HAPPENS NEXT?

1. Your notification will be acknowledged by the Director. Further information may be requested if required.
2. The teacher will be advised of the notification and provided with a copy of the Employer Notification Form.
3. The Board will determine how to progress the notification. In accordance with section 50(4)(a) the Board may:
 - Take no further action; or
 - Commence a preliminary investigation; or
 - Commence an inquiry.
4. If the Board commences disciplinary proceedings under Part 6 of the Act such as a preliminary investigation or an inquiry you will be required to provide further information in relation to the allegations.
5. You will be advised of the outcome of the disciplinary proceedings.

ANY QUESTIONS?

If you have any questions or require clarification regarding your obligations under the Act, contact the **Professional Conduct staff on 8944 9381** or email trbcomplaints.det@nt.gov.au

Disclaimer

This document has been prepared as a guide only to employer obligations under the *Teacher Registration (Northern Territory) Act*. If you remain in doubt about your particular circumstances you should seek independent advice.