

QUEENSLAND INDEPENDENT EDUCATION UNION



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ALL QUEENSLAND GRAMMAR SCHOOLS



MEMBER BRIEFING No. 3

Sector strategy to protect working rights and conditions Report from QIEU Delegation to Education Minister

Dear Colleagues

The campaign to protect the working rights and conditions of employees in Queensland Grammar schools has progressed since the last Member Briefing was forwarded in June.

Last month, the Grammar School Employee Reference Group formally authorised the QIEU Delegation to meet with the Queensland Education Minister; and this formal member representation has now taken place over the school vacation break. Delegation members are to be commended for their strong and professional submission to the Queensland Education Minister on behalf of colleagues.

Chapters now have the opportunity to demonstrate strong support for this campaign through their consideration and endorsement of the Deed of Settlement alternative to the radical consequences of the federal industrial relations jurisdiction.

QIEU Delegation to Queensland Education Minister

The QIEU Grammar Schools Employee Delegation meet with the Queensland Education Minister, the Hon. Rod Welford, on 5 July 2006. Delegation members received a very good hearing from the Minister and his Senior Policy Adviser.

In summary, the objectives of the delegation were to:

1. Convey Grammar school employees' opposition to the federal industrial relations laws, noting the significant threat to rights and conditions in the sector;
2. Note the failure of Grammar school employers to supply QIEU with a copy of written legal advice demonstrating that they are bound by the federal industrial relations laws, despite our requests to do so;
3. Explore any legislative capacity that the State Government may have to maintain state industrial relations protections for Grammar school employees, noting the establishment of Grammar Schools under an Act of the Queensland parliament; and in the alternate
4. Discuss the Minister's attitude to, and support for, another legal structure to safeguard the rights and conditions of Grammar school employees.

The Minister clearly expressed the desire of the Queensland Government to protect as many employees as possible from the horrendous nature of the federal industrial relations legislation and advised that the Queensland Industrial Relations Minister, the Hon. Tom Barton, was currently undertaking a review of the various semi- government agencies in these terms.

On the basis of this discussion, QIEU will now forward correspondence to Hon. Tom Barton asking him to specifically include the situation of Grammar School employees in his department's review (having appropriately first raised this with Hon. Rod Welford). Advice from the union solicitor will also be sought as to any further significance of Grammar schools' status as statutory bodies.

The delegation also comprehensively explored the Deed of Settlement option with the Minister in our meeting and shared the considerable interest this legal option had generated with other significant non-government education sector employing authorities to date.

Boards urged to consider Deed of Settlement

Subsequent to the Grammar School Employee Reference Group meeting on 8 June, QIEU has sent correspondence to each Queensland Grammar School Principal and Chairman of the Board advising them of recent developments in other Queensland non-government education schools (most notably the Catholic education sector) that have enabled the question of state versus federal jurisdiction to be set aside in favour of a Deed of Settlement option.

A Deed of Settlement is a legally enforceable agreement which would recognise all existing workplace rights and conditions, as well as those further enhancements negotiated in this round of collective bargaining. This Deed would be signed by Grammar school employers and QIEU, on behalf of members. A Deed of Settlement is similar in concept to a certified agreement; however, the Deed is made in the civil jurisdiction and fully recognised by well established common law and is not registered in either the state or federal industrial relations system. Under a Deed of Settlement, the scope of issues that may be raised for negotiation, agreed and included in future collective agreements is a matter for employer and employees – and is not subject to the interference of the federal government.

QIEU's correspondence notes that this effective legal option means that Grammar schools do have a choice to turn their back on the nastiness of the federal legislation and instead enter into a civil jurisdiction that protects the workplace rights and conditions of members. Where employers have responded to QIEU's correspondence, it has been to advise that this suggested option is now under consideration. Please find attached a FAQ information sheet about Deed of Settlements.

Attitude of other non-government education sector employers

Recent developments in other sectors of non-government education, in particular the Catholic sector, have seen employing authorities set aside the issue of state/federal jurisdiction ahead of a High Court decision on the constitutionality of the federal legislation.

This result occurred after much concerted effort by members in this sector to let their employer know that their working rights and conditions should not to be placed at risk in the federal legislation.

Grammar School Employees Reference Group meeting

A further meeting of the Grammar School Employee Reference Group has now been scheduled for Monday 17 July 2006.

This continuing open communication between Grammar school employees remains essential to the development and implementation of a co-ordinated campaign to resist a move to the federal industrial relations jurisdiction – and the loss of employees' working rights and conditions that would directly result.

Chapter meetings in Term 3

A Member Briefing (dated 14 June 2006) foreshadowed a need for members to participate in chapter meetings to be held at the beginning of Term 3.

The purpose of these meetings is to enable members to consider the advancement of our campaign to protect employees from the stark realities of the federal legislation (including the initiation of a petition calling on the respective Grammar School Boards to maintain existing working rights and conditions) and the formal endorsement of a Deed of Settlement option.

In addition, members will hear a report from their chapter's representative on the QIEU Delegation to the Queensland Education Minister and a report on the current status of industrial relations issues in the various Grammar schools.

Further details of each agenda item are provided below:

1. Endorse the sector-wide member education and action campaign to protect employees from the stark realities of the federal legislation

The report on the Grammar schools campaign contained in the July 2006 edition of *The Independent Voice* on page 4 contains a detailed summary of this member campaign.

Members are asked to consider and endorse the attached resolution indicating strong support for a Deed of Settlement alternative to the restrictions of working rights and conditions resulting from the federal industrial relations jurisdiction.

Members are also asked to consider and endorse the attached resolution to initiate a petition calling on the respective Grammar School Boards to maintain existing working rights and conditions of employees (and further enhancements as agreed in negotiations) through the acceptance of a Deed of Settlement option.

2. Collectively consider the status of industrial relations issues in Grammar schools

Grammar schools remain at various stages in the collective bargaining process. The vast majority of Grammar schools have either commenced negotiations for a replacement collective agreement, finished bargaining, or are in the midst of preparations to begin the process. The consequences of the federal industrial relations laws impose various prohibitions on what can be discussed and what a replacement agreement can contain. The effect of these laws is that the federal government now directly interferes in workplace discussions – even where employers and employees (with their unions) agree.

Where a Grammar school has not commenced collective bargaining, and matters of legal advice and relevant jurisdiction have not been excited by employers, there remains an inherent risk that at the point of an alternate determination by those employers to move to the federal industrial relations arena many workplace rights and conditions would automatically become unenforceable in existing collective agreements retrospective to 27 March 2006.

In essence, this is an immediate issue for us all. An updated report on the 'Status of negotiations in various Grammar schools', including the dates for each Queensland Grammar school chapter meeting, is attached for your information.

3. Hear a report from their chapter's representative on the QIEU member delegation to the Queensland Education Minister

While a brief report is included on page 1 of this Member Briefing, your school's representative on the QIEU Delegation will also be able to share their valuable personal insights with colleagues.

Next steps

Your attendance at the next chapter meeting is extremely important. Strong member support will be vital to let Boards of Trustees know that you and your colleagues in Grammar schools across the state will not let your working rights and conditions be placed at risk by a questionable, unilateral determination on the part of most Grammar School employers to announce their move to the federal industrial jurisdiction.

Kind regards



TERRY BURKE
GENERAL SECRETARY



yourrightsatwork
worth fighting for

QIEU GRAMMAR SCHOOLS CHAPTER FAXBACK

SCHOOL NAME: _____

1. Members of the QIEU Chapter at _____ reject any determination by Queensland Grammar school employers to move into the federal industrial relations jurisdiction.

We note that employers have been formally advised that a legal alternative exists that effectively protects employees' current working rights and conditions through a Deed of Settlement option.

Members of the QIEU Chapter at _____ formally endorse the campaign to protect working rights and conditions through the concept of a Deed of Settlement.

CARRIED / NOT CARRIED

2. Members of the QIEU Chapter at _____ authorise a petition calling on the respective Boards to maintain existing working rights and conditions, and further enhancements as agreed in collective bargaining, through the acceptance of a Deed of Settlement option.

CARRIED / NOT CARRIED

If additional comments required, please attach further sheets.

**PLEASE FAX BACK TO:
Queensland Independent Education Union on (07) 3839 7021
by Wednesday 2 August 2006**



QUEENSLAND INDEPENDENT EDUCATION UNION

FACT SHEET 2

Frequently Asked Questions **DEED OF SETTLEMENT**

Grammar schools

Fact Sheet No. 2

Q1. What is a Deed of Settlement?

A. A Deed of Settlement is a legally enforceable agreement which would recognise all existing QIEU member working rights and conditions as well as those conditions which are negotiated in this round of collective bargaining and endorsed by QIEU members.

This includes all rights and conditions currently protected by the state industrial relations laws.

The Deed of Settlement would be signed by participating employers and QIEU, on behalf of its members. QIEU has no legal authority to enter into a Deed of Settlement on behalf of those employees who are not union members.

Q2. Is a Deed of Settlement like a Certified Agreement?

A. A little. Like a Certified Agreement a Deed of Settlement is a legally enforceable document which provides for all QIEU member rights and working conditions. Unlike a Certified Agreement it is not registered in the Industrial Relations Commission but is fully recognised by well established common law.

Q3. Does this mean disputes will need to be resolved in the Civil Courts?

A. No. The dispute mechanism in the current certified agreements which continue to be recognised by the Deed of Settlement refer to the Queensland Industrial relations Commission (QIRC) so this would continue to be recognised by both parties as the legitimate tribunal for handling disputes.

However, as non-members will not be covered by the Deed of Settlement they will need to take independent legal advice at their own expense regarding their options.

Q4. Who will be legally covered by the Deed of settlement?

A. The Deed of Settlement is a legal document covering members of QIEU and other relevant unions who have signed it. It is important to understand that QIEU (and other unions) can only sign a Deed of Settlement on behalf of those employees who are union members.

This means that only QIEU members will have a say on the final agreement before it is signed.

It also means that the Deed of Settlement is legally enforceable only for union members and therefore only the rights and conditions of members are protected.

Q5. What protects the rights of non- union members?

A. Employing authorities may (and probably will) make a separate decision to extend the benefits and conditions contained in the Deed of Settlement to employees who are not union members.

However, employees who are not union members may have difficulty enforcing any provisions which are extended by employers.

The resolution of any dispute between non-members and their employer will be totally their own responsibility. A resolution to an unresolved dispute could be sought in the Civil Courts but the expense of such an option would be considerable.

Q6. How long will the Deed of Settlement operate?

A. A Deed of settlement is not indefinite. It will incorporate a process for review at appropriate intervals and/or a mechanism for termination at an appropriate point (for example, once there is a decision in the High Court challenge to the federal government's industrial relations legislation).

If the High Court challenge confirms that the state jurisdiction is the appropriate place for non-government schools then the process would be initiated to have agreements certified by the QIRC.

Regardless of the outcome, employers have agreed to meet with employees and their representatives once a High Court decision has been made, to discuss its significance and the options available to continue protecting employees working rights and conditions.



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STATUS OF NEGOTIATIONS IN VARIOUS QUEENSLAND GRAMMAR SCHOOLS

School	Expiry date of current collective agreement	Current negotiation status	Next QIEU chapter meeting
Ipswich Grammar School	1 July 2006	SBU negotiations for a replacement collective agreement have commenced. The Headmaster has advised staff (and QIEU) that legal advice regarding the relevant jurisdiction for IGS has been sought through the Grammar Schools Association, which may later impact on negotiations. However, until such time as this advice is confirmed, negotiations are proceeding in good faith. The next SBU will be on 28 July 2006.	Thursday 13 July
Ipswich Girls' Grammar School	31 January 2007	The Board has received and accepted legal advice that IGGS is in the federal industrial relations jurisdiction. The Principal has committed to renegotiate a collective agreement with staff (through QIEU) under the federal jurisdiction.	Thursday 20 July
Brisbane Grammar School	30 June 2007	The Headmaster has advised staff of the employer's intention to honour the current collective agreement (given that negotiations for a replacement agreement are not due until next year) and has chosen not to make any decision about the relevant industrial relations jurisdiction ahead of the High Court decision.	Tuesday 18 July
Brisbane Girls Grammar School	31 December 2006	The Principal has advised staff that BGGGS has not received legal advice regarding its industrial relations jurisdiction. The QIEU chapter has written to the Principal requesting positive clarification of the school's jurisdictional status and seeking assurances that employees' working rights will not be jeopardised. The Principal advises that while the industrial relations situation is being monitored, no decisions have been made due to the current uncertainty surrounding the legal position.	Thursday 20 July
Toowoomba Grammar School	24 June 2006	The Board has received and accepted legal advice that TGS is in the federal industrial relations jurisdiction. Negotiations then stalled, as the log of claims originally submitted under the state jurisdiction was necessarily withdrawn. The Headmaster has paid an interim 4% pay increase. The Headmaster and the Chairman of the Board have been briefed on an option of a 'Deed of Settlement' raised with them by a QIEU member delegation. The next SBU will be on 20 July 2006.	Wednesday 26 July
Toowoomba Grammar Junior School			Wednesday 26 July
Rockhampton Grammar School	31 December 2005	The Board has received and accepted legal advice that RGS is in the federal industrial relations jurisdiction after negotiations for a replacement EBA had concluded and been endorsed by a ballot of staff. Pleasingly, the Board is positively considering the option of a 'Deed of Settlement' raised with them by a QIEU member delegation.	Monday 31 July
The Girls Grammar School - Rockhampton	31 December 2005	The Board has received and accepted legal advice that RGGS is in the federal industrial relations jurisdiction after negotiations for a replacement agreement had commenced. The Board is currently considering their options, including a 'Deed of Settlement' concept raised with them by a QIEU member delegation.	Tuesday 1 August
Townsville Grammar School	1 July 2006	SBU negotiations for a replacement collective agreement have commenced. The Board has received and very strongly asserted their legal advice that TGS is in the federal industrial relations jurisdiction. An interim 4% pay increase has been paid; however, the employer has commenced consideration (outside the bargaining process) of performance based pay to be determined by the Principal and formalised in secret individual contracts.	Thursday 27 July
Townsville Grammar - Annandale Campus			Thursday 27 July