

# FACT SHEET

## Taking Protected Action

### – Advice for 28 October

Prpcpas21tb

Monday, 26 October 2009

## KEY ISSUES

- Your union will notify the employers if protected action is to occur.
- Only union members are legally protected in taking strike action.
- Student teachers on practicum or internship cannot engage in protected action nor replace teachers taking industrial action.
- Your union will advise employers when protected action is planned and advise them that members will be engaging in that action.
- In the event of protected action being taken the employer should inform parents.
- The employer has a duty of care to students and will be given adequate notice of protected industrial action so that duty of care can be maintained.
- If students seek an explanation as to your involvement in protected action an honest, succinct answer should be supplied.
- Employers have no right to ask you before the date of protected action if you will or will not be engaging in such action.

### Who notifies the Employer if protected action is to be taken?

Your union has advised your employer of the decision of members to authorise protected action.

### What about notification to schools?

Your union has given the required 7 working days notice to the employers prior to taking protected action.

### Who can take protected action?

Only union members who are to be covered by the proposed agreement are legally protected in taking action. Unfinancial members should contact the QIEU Membership Department urgently on 1800 177 937 to address their current status. Union membership forms can also be downloaded from the QIEU website at [www.qieu.asn.au](http://www.qieu.asn.au).

### Can students on practicum in our schools take protected action?

No. Students undertaking their practicum or internship are not able to engage in protected action. They cannot be used by the school as de-facto teachers and should not be given any responsibility above and beyond what they would normally be given. Student teachers cannot replace teachers who are taking protected industrial action.

### What about notification to parents?

In the event that members determine to take protected industrial action in the form of a strike, it is the employer's responsibility to send out appropriate written notification to parents advising them of this.

Reasonable advance notice should be given to parents of the proposed industrial action to allow them sufficient time to make suitable arrangements.

However, any teachers who are not union members would also be available for duty as usual to supervise students on that day.

### What if I am on a school camp or some other away-from-school activity?

If your Chapter is involved in action on this day and you are away at a camp or some other similar activity it may be necessary to maintain that commitment to the school activity. Members who find themselves in this situation may consider making a donation (equivalent to a day's pay) to a nominated charity to demonstrate solidarity with the actions taken by their colleagues.

### What do I say to my students if they ask me about strike/industrial action?

You should not initiate discussion with your students in regard to protected industrial action or the issue of interstate wages benchmark/s. However, if a student initiates discussion or questions you it is acceptable to succinctly explain that you are undertaking protected industrial action, as is your right under federal legislation, in an attempt to advance negotiations around wages for your current collective negotiations.

### Can the employer demand that individual members identify their intention to go on strike?

No. Your Union will advise the employer if employees have decided to take protected action, and the form and duration of that action. If the protected action is in the form of a full day strike the employers will be encouraged to close the school for the duration of that action.

An employer may ask "Who will be in attendance?" but cannot ask who will be taking protected action.

- If a strike is called mass rallies will be held at various locations and members are requested to attend where possible.
- Employers will deduct wages from an employee who engages in strike action which occurs during normal working hours.

In the case of a full day strike the employer will need to keep a record of the employees who attend for work on the day of the protected action for payment purposes. An employer cannot demand and should not request that employees identify their intention to take protected action before the day.

**When members engage in strike action should they “phone in” on the day?**

No. If strike action is authorised by members your union will inform your employer that union members will be engaging in strike action on a designated day.

**Should members taking the stopwork action provide lesson plans if the school remains open?**

No. Employees taking the protected industrial action will not be paid for the day.

They are not on paid leave for the day and are not subject to employer direction for the day.

**DAY OF ACTION ACTIVITIES**

**What do we do on the day of action?**

All members should attend their nearest mass meeting. Where a mass meeting is not being held within a reasonable distance Chapters should give consideration to engaging in a solidarity building exercise.

Mass meetings will be conducted in a number of regions including Cairns, Townsville, Yeppoon, Toowoomba and Brisbane. Details of mass meetings will be available from your union Organiser, advised in an upcoming chapter briefing and will also be placed on the QIEU website.

**What is the impact on members who take protected action?**

The right to take protected action is enshrined in Federal industrial legislation. It is against the law for any employer to disadvantage an employee because they exercised their basic legal right to take protected industrial action. The employer will deduct wages from an employee who takes the protected action for the duration of any strike action in which they engage during normal working hours.

**ABOUT MEDIA AND COMMUNITY SUPPORT**

**What is the advantage of gaining media coverage of protected action?**

Your union will adopt a media campaign around this issue as part of the taking of the protected action.

Media coverage is important so that parents and the public at large are aware that the action taken by employees in Catholic schools has occurred to support a just and fair wage claim and that it is action that has not been taken lightly but as a last resort.

Industrial action undertaken by teaching and non-teaching staff will result in significant media coverage. Protected action will also be supported by various media designed to demonstrate the reasonableness of teachers’ salary claim and campaign. It is important that all members engaged in protected industrial action behave in a lawful, considered and sensible manner.

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