

Consideration of Medical Conditions

Policy

Contents

1.	Purpose	3
2.	Legislation.....	3
3.	Policy statement	3
4.	Definitions	3
5.	Procedures and guidelines	4
6.	Related policies	5
7.	Related documents.....	5
8.	Document history	6
	Appendix 1: Extracts from the <i>Teachers Registration Act 2000</i>	7

1. Purpose

This policy is intended to guide deliberations by the Teachers Registration Board of Tasmania (the Board) and its officers about the potential impact of medical, psychiatric, or psychological conditions on teachers' and applicants' fitness to teach. It is also intended to guide the Board and its officers in determining when it is necessary to require a person to undergo a medical examination to obtain further information and assessment about a condition.

This policy applies to all applicants and currently registered teachers within the regulatory purview of the Board and is aimed at ensuring a proportionate response by the regulator to the notification of medical conditions that may impact on a person's fitness to teach.

2. Legislation

For relevant sections of the *Teachers Registration Act 2000* (the Act), see [Appendix 1](#).

3. Policy statement

To be a teacher in Tasmania, an applicant or registrant (registered teacher) must be determined to be fit to teach under Section 17K of the Act. Some but not all medical conditions will impact on a person's fitness to teach.

A determination about a person's fitness to teach is required at various points of the teacher registration cycle:

- as part of an application for registration (including applications to progress to full registration or to review the category of registration) or an application for a Limited Authority to Teach (LAT), based on declarations made by an applicant
- at the time a teacher who holds full registration renews their registration, based on declarations made at the time of renewal
- at any time during a teacher's registration cycle if the Board is notified about a medical condition or suspected medical condition, for instance via an employer notification, a complaint against a teacher, a notification of

criminal conduct that indicates a medical condition, or professional conduct that indicates a medical condition that could impact on that person's fitness to teach.

A registrant or applicant's notified medical, psychiatric, or psychological condition will be assessed under this policy to ascertain if it is of a nature that may adversely impact the individual's fitness to teach. The welfare and best interests of students will be of paramount importance in guiding this assessment (Section 7A of the Act).

The Board is only concerned with medical conditions that affect a person's fitness to teach, i.e., conditions that are specifically relevant to the circumstances. It is not the Board's intention that the assessment process be unnecessarily intrusive or arduous. The Board is aware that when dealing with matters involving disclosures about medical, psychiatric, or psychological conditions it is likely to include information that is confidential, sensitive and of a personal nature. The Board will observe privacy legislation, and any state and federal anti-discrimination legislation in collecting information and making determinations.

Disability discrimination

A disability does not automatically mean a person is unable to carry out the inherent requirements of employment (in this case their teaching role).

Under Section 16 of the *Anti-Discrimination Act 1998* (Tas), a person must not discriminate against another person on the ground of attributes including disability (which include medical conditions and/or mental health issues).

Section 45 of the *Anti-Discrimination Act 1998* (Tas) permits a person to discriminate against a person based on a disability if they are unable to carry out the inherent requirements of employment.

4. Definitions

'The Act' means the *Teachers Registration Act 2000*.

'Registered teacher' means a person who is fully registered, provisionally registered or specialist vocational education and training registered and

whose name appears on the register of teachers (Section 3 of the Act).

'Holder of a limited authority' means a person who holds a current notice of Limited Authority to Teach (Section 3 of the Act).

5. Procedures and guidelines

If an applicant or registrant's fitness to teach could be impacted by a medical, psychiatric, or psychological condition, the Board may seek further medical opinion before making a determination.

When considering fitness to teach, the Board will focus on those matters that in the Board's opinion indicate that:

- a significant issue may be present that affects fitness to teach that has not been mitigated to the satisfaction of the Board (i.e. is specifically relevant to the circumstances of the person's teaching role)
- the person is unable to discharge their duty of care to students
- the person's competence is, or is likely to be, adversely affected or compromised because of the impact/s of the notified/declared medical condition in ways that have not been mitigated to the satisfaction of the Board
- the person poses, or may pose, a risk of harm to a student and others in a way that has not been mitigated to the satisfaction of the Board.

The Board will consider several factors when making its assessment about fitness to teach and will, when required, seek expert medical advice. The Board's assessment may include but is not limited to:

- what the adverse impacts of the medical condition may be on the person's ability to practice as a teacher and fulfil the requirements of teaching
- whether the medical condition is transient or permanent
- the complexity and prognosis of the medical condition

- what the person has done, is doing, or is proposing to do to manage the condition and its effects (e.g. any treatment being undertaken or proposed)
- if the person is currently employed as a teacher, whether the employer knows and, if so, how the medical condition is being managed in the workplace
- whether the medical condition is of a nature that suggests that adjustments or assistance are required so the teacher is fit to teach and, if so, what adjustments or assistance are needed and/or supported by the employer
- whether recent written advice from a medical practitioner or specialist is available to support the applicant's request to be registered and their declaration that they meet the minimum requirements of being fit to teach under the Act.

Review of decisions

- Decisions made by officers of the Board under their Statement of Duties in line with Board policy and documented Board precedent are reviewable by the Board by making application for review within 28 days of the date of the decision.
- Any decision made by the Board (or its duly authorised Delegate, the Registration Oversight Committee (ROC)) to refuse an application for the grant or renewal of registration, or to impose a condition on registration, is a reviewable decision under Section 29 of the Act. An applicant or registrant has the right to apply to the Magistrates Court (Administrative Appeals Division) for a review of the Board's decision within 28 days of provision of notice under Section 28 of the Act.

Note: The Professional Conduct Committee (PCC) does not have Board delegations to refuse a grant or renewal of registration but does have the Board's delegation to impose conditions.

Initial consideration and assessment

All information provided by applicants is initially considered under relevant Policy and documented Board precedent by the allocated officer of the Board to assess whether there is sufficient

information to determine if the person is fit to teach, or whether further information/consideration is required.

If, after undertaking an initial assessment, an officer of the Board and their Supervisor decide there are grounds for further consideration, the Supervisor may:

- authorise the Officer to request further information from the applicant. The decision about requesting further information will be based on the clarity and completeness of information provided by the applicant, the nature and complexity of the matter, and the likely adverse impact on the applicant's teaching capacity
- or**
- discuss the approach with the Executive Officer (and a decision about the approach will be formally documented) where it is considered the matter requires further advice from third parties or medical specialists.

Committee determinations and medical assessments

The PCC or ROC may require further information from registrants or applicants respectively, which could include advice from third parties such as medical practitioners or specialists or the applicant's employer (with the consent of the applicant).

Where written advice is requested from a medical practitioner or specialist, it will be from a practitioner of the applicant's choice and will be obtained at the applicant's expense unless the Board requires a person to undergo a specific examination. For example, if someone is under inquiry with the Board, and a psychiatric report is required, the applicant or registrant will not be required to pay for that report.

If an applicant or registrant is relying on a medical practitioner's advice to show they are fit to teach, such advice must:

- be signed and issued by a medical practitioner or specialist
- be sufficiently recent to make an accurate current assessment

- outline the current diagnosis, treatment, prognosis, and current state of health
- give the medical practitioner's opinion as to whether the person is fit to teach.

An applicant should only tender medical advice to the Board where the Board has requested such information.

Based on its assessment of the circumstances of the matter, the PCC, under delegations from the Board, may place conditions on a person's registration to mitigate a risk and/or it may make a recommendation to the ROC. The ROC, under its delegations from the Board, will make a decision about whether the applicant is fit to teach and is therefore able to be registered.

6. Related policies

Consideration of Criminal History Policy

7. Related documents

Equal Opportunity: A Workplace Guide for Employers in Tasmania (Equal Opportunity Tasmania)

Easy Read Discrimination Brochure (Equal Opportunity Tasmania)

Irrelevant Medical Record Discrimination Leaflet (Equal Opportunity Tasmania)

8. Document history

Version	Details	Approved by	Approval date
1.0	Policy established	Board	27/10/2022

Appendix 1: Extracts from the Teachers Registration Act 2000

Teachers Registration Act 2000

Version current from 1 July 2022 to date (accessed 14 October 2022 at 9:26)

17K. Determining whether person fit to be teacher

[Section 17K Inserted by No. 79 of 2009, s. 8, Applied:01 Jan 2010]

- (1) If at any time under this Act, including for the purposes of an inquiry, the Board is to determine whether a person is fit to be a teacher, the Board may take into account –
 - (a) any medical, psychiatric or psychological condition of the applicant; and
 - (b) the competence of the person as a teacher; and
 - (c) any other matter it considers relevant.

- (2) For the purposes of determining whether a person is fit to be a teacher, the Board may require the person –
 - (a) to undergo a medical examination, including a psychiatric, psychological or other examination; and
 - (b) to authorise the medical practitioner, psychologist or other person undertaking the examination to provide a copy of his or her report on the person to the Board.