

TO: QTU REPRESENTATIVES

(Please ensure that the Principal and each QTU Rep receives a copy of this Newsflash)

Please e-mail or provide a copy to each member (do not simply place on the noticeboard)

Moratorium remains in place despite QIRC orders

QTU Executive has determined that the moratorium on the implementation of the 2010 NAPLAN tests will remain in place, despite the orders issued by the Queensland Industrial Relations Commission (QIRC) on Friday, 30 April 2010.

QTU Executive made this decision because:

- the current campaign is a national campaign with serious consequences for the future of state education;
- the misuse of the data on the My School website has led to the development of league tables, with potentially damaging effects on schools; and
- the Deputy Prime-Minister has repeatedly failed to negotiate on this issue and consequently has failed to act in the best interest of schools and students.

In relation to the “binding nature” of the QIRC orders, members should note that by implementing the moratorium, QTU members are following a directive of the Union and as such have the industrial protection afforded by Union membership.

Failing to comply with an order is not in itself an offence. The QTU Executive believes it is important for teachers to stand up for themselves, their profession, their students and their schools.

National campaign

Members are advised that currently all AEU branches and associated bodies (all states), with the exception of Northern Territory have been issued with orders to stop the moratorium on NAPLAN. All states advise that they are taking similar action to Queensland with respect to these orders.

Any decision to remove the moratorium on NAPLAN will be made at a national level.

Attempts to negotiate with the federal government are ongoing. Members will be advised of any future developments. However, should a resolution not be reached by tomorrow afternoon, it is unlikely the 2010 NAPLAN tests could proceed as scheduled next week.

QIRC decision

On Friday, the QIRC determined to issue orders regarding the moratorium on NAPLAN, despite the QTU's continued submissions that this is a professional rather than an industrial issue. This decision was fundamentally unfair and unjust – addressing none of the concerns of teachers – yet apparently legal.

Doing the federal government's bidding, the Department of Education and Training (DET) applied to the Commission on Monday, 19 April 2010 in an effort to have the moratorium removed.

Despite the QTU's submissions regarding the professional nature of the dispute and its contention that a resolution to the issue would only be found if the federal government engaged in meaningful negotiations with the AEU, the QIRC issued a direction that the moratorium be lifted.

Last Tuesday, QTU Executive determined that despite the Commission's direction, the moratorium should remain in place.

Consequently DET applied to the QIRC for orders that the moratorium not occur – these orders were issued on Friday, 30 April 2010. In this hearing, the QTU sought:

- the referral of the matter to the full-bench, in recognition of its significance;
- an adjournment to provide evidence from QTU witnesses; and
- an adjournment to review the witness evidence provided by DET.

All these requests were denied by the Commission before it proceeded to issue the orders.

Latest bad decision by QIRC

The orders issued on Friday follow a string of bad decisions by the QIRC.

In the past twelve months the QIRC has continued to demonstrate just how hard it is becoming for workers in this state to get a fair hearing. (Remember losing your right to strike and the interim increase of only 4 per cent during last years EB campaign?)

Fines and deduction of salary

A newspaper report on Sunday, 2 May 2010, suggested that the QTU could be eligible for fines up to \$100,000 and deregistration, while individual teachers would face fines of up to \$4,000.

Notwithstanding media reports, the Queensland Government has advised the QTU that it would not be pursuing fines against individual members and would advise the QIRC as such. While it is unlikely to have to do so, the QTU will ensure no member is out-of-pocket due to any fines imposed by the QIRC.

While those penalties are possible under the Act, further processes are required in the QIRC before any decision is made.

Any penalties are very likely to be on the Union and its officers, rather than individual members.

The amounts reported in the paper also represent the maximum possible fine. If fines are issued, the QTU does not believe that they will be at the maximum end of the scale, given this is the first time in our recent history (more than 25 years) that such action has been taken.

As the QIRC has determined that the moratorium on the implementation of the 2010 NAPLAN tests is industrial action, the government could potentially deduct pay from teachers participating in the moratorium. However, in order to do this the government must know who has followed the QTU directive.

In contrast to previous disputes, the QTU is advising members NOT to provide the names of any members participating in the moratorium. Apart from NAPLAN, teachers are at work carrying out their normal teaching duties and not on strike.

Moratorium remains in place

Despite the QIRC orders, the directive to place a moratorium on the implementation of the 2010 NAPLAN test remains in place.

The effect of this moratorium is that the NAPLAN tests will not proceed until the federal government meets with the AEU in an endeavour to resolve the issues with the My School website raised by the profession.

Non-cooperation via a moratorium will involve action by all members.

Members are advised that, in the lead-up to, on the actual days and in the days following, members are to teach their normal classes and undertake their regular activities and duties.

Examples of what non-cooperation involves are detailed in Members' Newsflash 06-10 – QIRC makes another bad decision (http://www.qtu.asn.au/nflash_06_10.pdf).

A sample letter to parents on behalf of the QTU and teachers can be obtained from the QTU website.

What if we don't succeed with this campaign?

If we are not successful in our campaign to achieve changes to the My School website, media outlets will continue to develop damaging league tables. (The Weekend Australian published league tables as recently as last Saturday.)

Additionally, QTU members will not be able to take action on future federal education policies with wide ranging impact on our profession including:


- a national teacher registration system;
- the national curriculum; and
- a national testing regime for Year 12 assessment.

DET has repeatedly used threats to national funding as the reason that industrial action should not take place. This argument was put forward by DET during the EB6 campaign and last Friday.

We cannot allow funding agreements signed by the state and federal governments to erode the industrial and professional rights of teachers. These agreements have been signed in the absence of consultation with the QTU and in breach of the relevant certified agreements.

If we do not stand firm around these arguments then teachers will in future be prevented from taking any action in support of their professional and industrial rights.

Authorised by:



John Battams
General Secretary