

# Witness Information

The Teachers Registration Board (the Board) is an independent statutory authority established under the *Teachers Registration and Standards Act 2004* (the Act).

## The Board

The Board consists of 16 members appointed by the Governor and delegates the conduct of proceedings to a panel of the Board that includes a legal practitioner and a practising teacher.

The functions of the Board include two types of proceedings:

- **applications** by teachers to be registered where registration has not been approved by the Registrar - Qualification or Fitness and Propriety issues and;
- **inquiries** to determine if there is a proper cause for disciplinary action against a teacher or whether the capacity of a teacher to teach is impaired.

## The Registrar

- is delegated by the Board to approve applications for registration of teachers and;
- is the person authorised under the Act for investigating concerns and allegations about teachers and laying complaints before the Board to commence an inquiry (the Board may also initiate an inquiry of its own motion).



## The Investigation Process

The Registrar, or a person authorised by the Registrar, usually an investigations officer, has certain **powers of investigation** under the Act to ask questions and obtain information and materials.

As a witness pursuant to the Act, if required, you are obliged to co-operate in an investigation process. It is an **offence not to answer** questions or provide information and materials as requested. This is so even if you have already provided similar information to SAPOL, your employer or another body.

Information or statements given by you to other authorities may be obtained by the Registrar.

Information provided by or to you during an investigation process should be kept confidential and not discussed with other persons, particularly anyone who may also be required to provide information about the matter.

You will usually be informed of the identity of the teacher who is the subject of the inquiry and in general terms of the issues or concerns.

If you provide information to an investigator you may receive a **written statement** to approve and sign which will form the basis of your evidence if a hearing before the Board is necessary.

## Following the Investigation

The Registrar may decide to **lay a 'Complaint'** about a teacher before the Board.

You may be **required to appear** at a hearing of the proceedings before the Board as a witness, or any statement you have made may be provided to the Board without the need for you to attend.

You may be **notified in writing** of:

- the requirement for you to be a witness;
- a meeting with the legal counsel of the Registrar;
- what to bring;
- where to attend for any meeting and the hearing;
- who you can speak to about any practical issues.

## Complaint

A **'Complaint'** is the term used for the formal document provided to the Board by the Registrar which outlines the allegations against a teacher and forms the **basis of an inquiry** into a teacher's conduct or capacity to teach. It is to be **distinguished** from general complaints or concerns made about a teacher by others. Evidence is given at the inquiry hearing to support the allegations made in the **'Complaint'**.

The Registrar becomes the **complainant** in any inquiry (unless the Board itself initiates the Inquiry).

## Meeting with Legal Counsel

Usually the legal counsel for the Registrar (or legal counsel assisting the Board if it is a Board initiated inquiry or an application hearing) will meet with you to go through what you will be asked (**your evidence**) in the hearing.

You should **ensure** you provide any additional relevant documentation or material you have to legal counsel at this time. The teacher, the subject of the inquiry, will be entitled to see any of your relevant documentation or material.

Ask legal counsel about any concerns or queries you have about the hearing and your evidence.

Legal counsel will explain the hearing procedure to you.

Information should be kept confidential and not discussed, particularly with other possible witnesses.

## The Hearing

Under the Act the Board has the power to **issue a summons** requiring your attendance and/or that you produce documents for the Board. If you do not do so you may be guilty of an offence.

You may prefer to have a summons for the purposes of leave from your employment and/or to demonstrate that you are simply assisting the Board in its statutory role.

The hearing is usually held at the Board's premises.

As a witness you are not entitled to be present except when giving evidence.

The hearing is conducted in a similar, but less formal, manner to a court and the Board decides its own procedures.

## Parties

The parties at an **inquiry hearing** are the teacher (the respondent) and the Registrar (complainant) (unless the Board initiates the inquiry of its own motion), but the Registrar does not attend and legal counsel acts on the Registrar's behalf.

At an **'application for registration'** hearing only the teacher is a party, though the Board may have the assistance of legal counsel.

Only the parties and their legal counsel are permitted to be present throughout the hearing.

A **witness**, including any victim of the teacher's conduct, is **not a party** to the proceedings and as such **does not** have the rights of parties under the Act to be represented by counsel, to call evidence, question witnesses and be present during the hearing.

## *Role of Registrar*

The Registrar is the **complainant** at an inquiry hearing but does not usually attend the inquiry, and, through legal counsel, calls evidence and **examines witnesses** in support of the allegations in the complaint laid before the Board. Legal counsel can question the teacher and any witness called on behalf of the teacher (**cross examination**).

In an application hearing the Registrar may provide information to the Board and legal counsel but usually has no formal role at the hearing.

## *The Teacher*

In an inquiry hearing the teacher will usually, but not always, be represented by legal counsel and/or a union representative and has the right to cross-examine any witnesses called by the Registrar, give evidence, produce documents and call and examine witnesses.

In an application hearing the teacher or their legal counsel will present the teacher's evidence first.

## *Role of the Witness*

You will be called into the hearing and required to take an **oath or affirmation**.

You **must answer** any questions put by the Registrar's legal counsel or legal counsel assisting the Board in **examination** and the teacher's counsel in **cross-examination** and by Board members.

Only bring with you documents or materials you have discussed with the Registrar's or Board's legal counsel.

If you discover any further documents or materials of significance before you attend at the hearing you **must inform** legal counsel for the Registrar or Board.

**Do not** refer to any documents or materials you may have with you in the hearing without first asking the Chair of the Subcommittee if you may or if you are requested to by legal counsel.

**Note** that any document or materials you may use at the hearing will be **disclosed** to the teacher under the rules of natural justice and may be required to be submitted to the Board as evidence.

## *Procedure at the Hearing*

### *An Inquiry*

The Registrar's witnesses are called to give evidence and questioned (**examined**) one at a time.

Legal counsel for the teacher may question (**cross-examine**) each witness after they have given their evidence.

The witness is then released from the hearing.

Legal counsel for the teacher may present evidence and witnesses for the teacher, and witnesses are cross-examined by the Registrar's legal counsel.

Submissions are made to the Board by both legal counsel.

The Board may adjourn the inquiry for further hearing.

At the conclusion of the inquiry the Board adjourns and may make its decision at that time or at some later date.

The proceedings are recorded.

### *An 'Application for Registration' Hearing*

Differs in that the teacher or the teacher's legal counsel will present the teacher's evidence first and call witnesses, and legal counsel assisting the Board will cross examine then call other witnesses.

## Questioning

You may find some questions difficult and feel under attack. It is important to remain calm and remember it is the teacher whose conduct is under investigation.

You are only required to answer questions relevant to the inquiry. Legal counsel for the Registrar or the Chair of the Subcommittee at the hearing will normally intervene if questions are not relevant or unduly personal or offensive, but if you are concerned about answering you may respectfully ask the Chair of the Subcommittee if you are obliged to answer.

## Remember

- listen carefully to the question;
- ask for it to be repeated or explained if you do not understand;
- do not guess, if you are unsure tell the Board so;
- speak clearly;
- if you need a break ask the Chair of the Subcommittee;
- if you wish to refresh your memory by reference to a statement or document you must ask legal counsel or the Chair of the Subcommittee first;
- ask for time to read any documents referred to during your evidence if you need to;
- stick to the facts, your observations and first-hand knowledge and do not give an opinion unless specifically asked. Usually an opinion should only be given if it is something within your expertise or can be answered by persons generally.

## Support Person

You may have a support person during an investigation and during the hearing who:

- should not be someone involved with the matter as they may also be required as a witness;
- cannot act as your advocate and must remain seated and quiet in the hearing and during questioning in an investigation and cannot answer on your behalf.

## Expenses

The registrar will arrange any accommodation and travel arrangements if necessary.

## After the Hearing

A case summary of the inquiry and outcome is published on the Board's website at: [www.trb.sa.edu.au](http://www.trb.sa.edu.au). The case summary does not identify the teacher or other persons involved in the inquiry.



**For more information on any of the above matters please contact:**

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