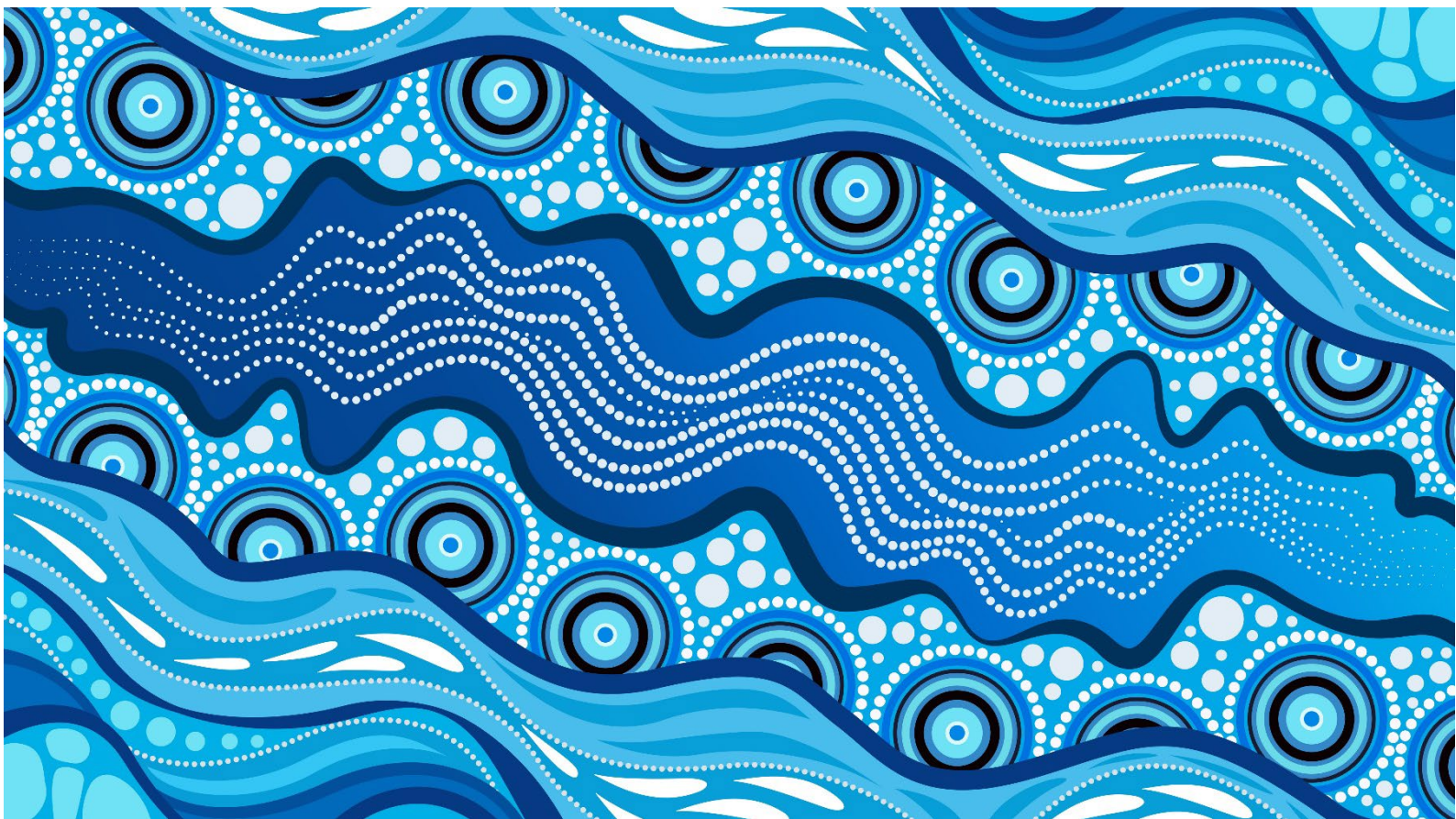


Fit and Proper Person to Teach Guideline

Teacher Registration Board of the Northern Territory



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1.0	3 December 2015	Manager Professional Conduct	First version
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Acronyms	Full form
NT	Northern Territory
TRB	Teacher Registration Board Northern Territory
DCO	Disclosable Court Outcome
NPC	National Police Check
CHC	Criminal History Check

To be read in conjunction with	
Title	Location/Link
Teacher Registration (Northern Territory) Act 2004	Northern Territory Legislation Database
The Australian Professional Standards for Teachers	Teacher Standards
Fit and Proper Person to Teach Policy	
Framework for Teacher Registration	Framework for Teacher Registration In Australia

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Summary

This guideline outlines the Teacher Registration Board of the Northern Territory's (the Board) requirements for National Police Checks (NPCs) and the process for delegated decisions on an applicant's fitness and propriety to teach, in accordance with all relevant legislation.

Purpose

This guideline serves as a reference for determining which Disclosable Court Outcomes (DCOs) require a decision by the Board, or can be delegated to the Director for decision making.

Section 32(1)(a) of the *Teacher Registration (Northern Territory) Act* (2004) (the Act), prescribes the Board's requirement to consider a person's criminal history when determining their eligibility for registration or authorisation.

Scope

This guideline is intended as an internal resource and tool within the office of the Board. This guideline is applicable to:

- Staff within the office who are required to assess applications for registration and authorisation.
- The Director of the Board who is required to make assessments regarding a person's fitness and propriety to teach.
- The Board, who are required to make decisions regarding a person's eligibility for registration and authorisation in accordance with section 32 of the Act.

Definitions

Term	Definition
Act	the <i>Teacher Registration (Northern Territory) Act</i> 2004.
Authority to employ unregistered teachers	means the Board has granted an employer to employ a person to teach who does not hold the prescribed requirements for registration. A person who is employed is usually referred to as being "employed under authorisation".
Applicant	means a person applying for provisional or full registration, or a renewal of provision or full registration, or to transition from provisional to full registration or a person being employed under authorisation
Board	means the Teacher Registration Board of the Northern Territory established under section 6 of the Act.
Initial Applicant	means a person submitting a new application for registration under Form A or Form C (i.e. not an applicant applying for a renewal of registration; to move registration categories or for registration under mutual recognition

Offence types

Offence	Definition
Notifiable offence	A notifiable offence is one that carries a maximum penalty of 12 months imprisonment or longer.
Serious offence	A serious offence is one that intends or inflicts harm on a person. These are indictable offences that are generally considered offences against a person. They are classified as serious harm, serious drug offences and serious traffic offences and are usually dealt with in the Supreme Court with potential terms of imprisonment for 5 years or more. A serious offence is never spent if a person has had a sentence of imprisonment imposed for more than six months.
Reportable offence	A reportable offence is one that causes harm, risk or exploitation to a child or young person and/or includes domestic, family or sexual violence. These offences result in a reporting order for an offender.
Disqualifying offence	A disqualifying offence is prescribed in the <i>Care and Protection of Children Act 2007</i> , <i>Care and Protection of Children (Screening) Regulations 2010</i> . Disqualifying offences include sexual and serious offences against a child. These offences will not appear on a clearance notice as the offence disqualifies a person from receiving a clearance notice. A list of these offences is attached to this document at Appendix A.
Prescribed offence	A prescribed offence is an offence specified in the schedules and regulations of the <i>Child Protection (Offender Reporting and Registration) Act and Regulations 2004</i> and the <i>Teacher Registration (Northern Territory) 2004 Act & Regulations</i> . These offences are set out at Appendix B at the rear of this document.
Non-notifiable offence	A non-notifiable offence that should be considered due to the persons behaviour or patterns of behaviour and includes riotous, offensive, disorderly or indecent behaviour, fighting or obscene language, within hearing or view of any person in any road, street, thoroughfare, or public place. It also includes unreasonably disturbing the peace of, disrupting the privacy of, or causing a substantial annoyance to, another person. These are otherwise known as street offences. Additionally, traffic offences involving drink driving and low-level drug offences need to be given consideration.

Fitness to teach

In relation to the Board's consideration of eligibility for registration and authorisation in accordance with the Act, fitness and propriety to teach the below may be considered in decision making:

- Criminal history which is questionable for the safety of children or an individual's character
- Actions or behaviours that create risk to safety of children, families, communities and other staff members.
- Behaviour that calls into question that the person is of good character.
- Behaviour that does not reflect a reasonable standard expected of a teacher.
- Words or actions that cast dispersions on the profession of teaching or may call the profession into disrepute.

- Behaviour that is not in accordance with the Code of Ethics for Northern Territory Teachers or other guidelines published by the Board.
- Other relevant matters such as impairment, condition or disorder including substance abuse or dependence.

Details

During the registration process, teachers are required to make a declaration if they have been subject to any court outcomes, and SAFENT provide a 'National Police Certificate' (NPC) that outlines any Disclosable Court Outcomes (DCO) a person may have.

Consideration that may inform decision-making

Paramount consideration

- Does the offence relate to the safety and wellbeing of children, young people and all who are engaged in the provision of education to children?

General consideration regarding conduct

- Is the offence a notifiable offence?
- Have there been any other offences or a reoccurring pattern of behaviour?
- Is the offence relevant to the roles and responsibilities of a teacher?
- What is the extent to which the conduct departs from the standards reasonably expected of a teacher?

Circumstance

- Is there an explanation for the conduct?
- Did the offence occur before, or during the time the person was a teacher/authorised person?
- Were children involved?

Sexual Offences

With regard to sexual offences, provisions under sections 69 and 70 of the Act strictly apply. The Board must, by law, cancel the registration or authorisation of teacher or authorised person who is found guilty of a sexual offence. The Board must notify the teacher or authorised person, their employer (if known) and other registration authorities in Australia and New Zealand.

Threshold for delegated decision making

Appendix A, sets out the thresholds for delegated decision making, as approved by the Board during its meeting on 28 November 2024. Whilst not an exhaustive list, Appendix A includes offence types commonly declared by applicants for registration and authorisation, and declarations of those who already hold registration or authorisation, as required by legislation.

Appendix A reflects a possible penalty or outcome that would be applied under the *Criminal Code Act 1983*, *Motor Vehicles Act 1949*, *Misuse of Drugs Act & Regs 1990*, *Sentencing Act 1995*, *Summary Offences Act*

1923, or *Traffic Act & Regulations 1987* and how they would be assessed under section 7A of the *Bail Act 1982* as a reference point for the judgement as to the seriousness of the offending.

- Classification of whether the offence is notifiable, prescribed or reportable *Care and Protection of Children Act 2007*, *Care and Protection of Children (Screening) Regulations 2010*, *Child Protection (Offender Reporting and Registration) Act and Regulations 2004* and *Teacher Registration (Northern Territory) 2004 Act & Regulations*, which assists in determining how the offence should be read.
- Timing of the incident in intervals that are part of the consideration in decision making (More than 5 years, less than 5 years, within 12 months) and align with considerations under the *Bail Act 1982*.

Roles and Responsibilities

Registration/Authorisation Officers

Registration/Authorisation officers will triage all Disclosable Court Outcomes into 3 categories:

1. DCO that does not include notifiable offences, and does not require a decision by the Board.
2. A DCO that requires noting by the Board – this may be a notifiable offence that:
 - has been previously noted not of concern by the Director/Board, or
 - it occurred more than 5 years ago and is considered historic, or
 - is an offence that was a one off and was not a sexual offence. Further information may have been requested by the Director about the circumstances of the offence.
3. A DCO that requires a Board decision:
 - Is a notifiable offence that has either had information supplied at the time of application or has been requested by the Director.
 - These DCO will be developed into a paper for the Board to consider with accompanying documentation such as:
 - i. a letter from the applicant/teacher/authorised person explaining the circumstances regarding the offence(s),
 - ii. a charge sheet provided by police,
 - iii. a Statement of Facts provided by the court.

Director

The Director is to consider who can be granted interim registration under section 34(2) of the Act, which details that the Director must 'reasonably believe' the Board is likely to grant registration.

DCO that are not notifiable will go to the Director for sign off as "not of concern". The Board will then note the DCO at the next Board meeting, and no further action is required. In some cases, if the offence is not notifiable but there are multiple entries that may present a pattern the Director may refer the DCO to be considered by the Board for a decision.

The Director may be required to request additional information regarding a DCO to assist in assessing a person's eligibility for registration/authorisation pursuant to:

- section 32 of the Act for new applicants, or

- section 66(1)(a) for currently registered teachers.

The Board

The Board is responsible for the final decision regarding an applicant's eligibility for registration.

The Board may request additional information to inform its decision-making.

Procedural fairness

When making decisions, the Board must follow the principles of fairness. While the exact rules aren't clearly laid out in law, Australian courts say fairness includes two key ideas: giving people a fair chance to be heard, and making decisions without bias.

Giving someone a fair hearing means that anyone affected by the decision must be given a chance to explain their side before the decision is made. The rule against bias means that the Board must stay neutral and base its decision only on the evidence it has. It can't make assumptions or draw conclusions that aren't supported by the facts.

Appendix A

Driving Offence	Penalty	Notifiable/ Reportable/ Prescribed	Occurred more than 5 years ago	Occurred less than 5 years ago	Occurred less than 12 months ago
Disobeying road/ vehicle/ Traffic rules	Infringement Notice / Fine	None	Noting	Noting	Noting
Drive unlicensed / contrary restrictions	Fine	None	Noting	Noting	Noting
Driving unregistered	Infringement Notice / Fine / 1 year	Notifiable if in Court	Noting	Noting	Decision
Driving uninsured	Fine	None	Noting	Noting	Noting
Drive whilst disqualified	1 year	Notifiable	Noting	Decision	Decision
Low-range BAC >0.05% and <0.079%	Infringement Notice 1 st Offence	None	Noting	Noting	Noting
	6 months 2 nd Off in 2 years	None	Noting	Noting	Noting
Mid-range BAC >.08% and <0.149%	6 Months 1 st offence.	None	Noting	Noting	Decision
	1 year for 2 nd or subsequent offence	Notifiable	Noting	Decision	Decision
High-range BAC >0.150%	1 year	Notifiable	Decision	Decision	Decision

Drug Offences	Penalty	Notifiable/ Reportable/ Prescribed	Occurred more than 5 years ago	Occurred less than 5 years ago	Occurred less than 12 months ago
Cultivate prohibited drug (up to 2 plants - personal use)	Infringement Notice / Fine	None	Noting	Noting	Noting
Cultivate prohibited drug 3 to 4 plants	2 years	Notifiable	Noting	Decision	Decision
Cultivate prohibited Drug 5 to 19 plants	7 to 10 years	Notifiable	Decision	Decision	Decision
Cultivate prohibited drug 20+ plants	25 years to Life	Notifiable	Decision	Decision	Decision
Possession of prohibited drug Cannabis <50G	Infringement Notice / Fine	None	Noting	Noting	Noting

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Possession of prohibited drug Cannabis >50G or other drug	2 to 5 years	Notifiable	Decision	Decision	Decision
Possess trafficable quantity	5 to 14 years	Notifiable	Decision	Decision	Decision
Possess Commercial Qty	14 years to Life	Notifiable	Decision	Decision	Decision
Possession of drug paraphernalia	Infringement Notice / Fine	None	Noting	Noting	Noting
Supply dangerous Drug < Traff.	5 to 9 years	Notifiable & Reportable (if to child)	Decision	Decision	Decision
Supply Drug Trafficable or Commercial	5 years to Life	Notifiable & Reportable (if to child)	Decision	Decision	Decision

Property Offences	Penalty	Notifiable/ Reportable/ Prescribed	Occurred more than 5 years ago	Occurred less than 5 years ago	Occurred less than 12 months ago
Destroy or damage property	10 years	Notifiable	Decision	Decision	Decision
Take / drive / use vehicle without permission	5 to 7 years	Notifiable	Noting	Decision	Decision
Fail to meet firearm storage requirements	1 year	Notifiable	Noting	Noting	Decision
Take, Obtain or steal property without consent	7 to 10 years	Notifiable	Decision	Decision	Decision
Shop stealing	6 months	None	Noting	Noting	Noting
Receiving property	10 years	Notifiable	Noting	Decision	Decision
Trespassing	6 months		Noting	Noting	Noting
Agg Trespass on Primary Producer	12 months	Notifiable	Noting	Noting	Decision

Conduct Offences	Penalty	Notifiable/ Reportable/ Prescribed	Occurred more than 5 years ago	Occurred less than 5 years ago	Occurred less than 12 months ago
Offensive conduct/ behaviour/ language	6 months	None	Noting	Noting	Noting
Assault police/ Assault worker	5 to 16 years	Notifiable	Decision	Decision	Decision

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Resist officer in execution of duty	6 months	None	Noting	Noting	Noting
Common Assault	1 year	Notifiable	Noting	Decision	Decision
Assaults (generally)	5 years to life	Notifiable	Decision	Decision	Decision
Domestic Violence Offences	1 - 3 years	Notifiable & Reportable	Decision	Decision	Decision

Appendix B - Disqualifying offences

Care and Protection of Children (Screening) Regulations 2010, regulation 7(2)(a)

1 Criminal Code Act 1983	
Provision of Act	Qualification
Section 125D	Use child to produce pornography or produce child abuse material
Section 156	Murder if the victim is a child
Section 194 & 195	Kidnapping if the person kidnapped is a child
Section 202B, 202C, 202D	Sexual Servitude of a child
Section 208H, 208HA or 208HB	Forced sexual intercourse or penetration, of another person or an animal, or act of gross indecency, where victim is a child
Section 208J, 208JA, 208JB, 208JI,	Sexual intercourse or causing penetration, gross indecency or repeated sexual abuse – child under 16 years
Section 208K, 208KA or 208KB	Person in position of authority commit sexual assault, perform sexual conduct or gross indecency, to or by a young person 16 or 17 years of age
Section 208LB, 208LC, 208LD or	Sexual assault, cause sexual conduct or gross indecency by person where victim is a child and has cognitive impairment.
Section 208MA	Incest where victim is a child
2 Misuse of Drugs Act 1990	
Provision of Act	Qualification
Section 5B(1)	Supply Prohibited Drug to Child
3 Criminal Code (Cth)	
Provision of Act	Qualification
Sections 268.8 to 268.68 and 268.70 to 268.101	Crimes against humanity, war crimes
Section 270.6(1)	Forced labour of a child
Section 270.6(2)	Forced sexual servitude of a child
Section 270.7	Deceptive recruiting a child for labour or services
Sections 271.4, 271.7, 272.8 to 272.14, 272.19, 273.5, 273.6, 309.2 to 309.4, 309.7, 309.8, 309.10 to 309.15, 471.16, 471.17, 471.19, 471.20, 471.24, 474.19, 474.20, 474.22, 474.23, 474.25A, 474.25B and 474.26	Trafficking in children, sexual assault or abuse with child outside Australia. Procuring child for sex outside Australia, supply drugs to a child, use or procure child to traffick drugs or precursors. Use post to send explosives or child abuse material, to procure / groom, or send indecent material to person under 16 years.

4 Customs Act 1901 (Cth)

Provision of Act	Qualification
Section 233BAB	Import / export items of child pornography or child abuse material

Appendix C - Prescribed sexual offences for section 4 of the Act, not included above.

Teacher Registration (Northern Territory) Act 2004, regulation 2A

1 Criminal Code Act 1983

Provision of Act	Qualification
Section 125B, 125C 125E	Production or possession of child abuse material by person or company or publish indecent article
Section 201	Abduction, enticement or detention of a child under 16 years for immoral purposes
Section 208AAB, 208AB, 208AC, 208JF	Record or capture, distribute or threaten to distribute, intimate image without consent
Section 208JC, 208JD, 208JE, 208JG, 208JH	Sexual Intercourse without consent, sexual penetration, of another person or an animal, or act of gross indecency, indecent touching or compelling indecent touching or act, expose to indecent act, all victims. Procure child for sexual acts, grooming child for sex,
Section 208KC, 208LE	Indecent touching of a young person 16-17 years of age by person in position of authority, or a person with cognitive impairment by person responsible for care.
Section 208N, 208NA	Bestiality or public masturbation.
Doing any of the following in respect of the offences above	Counselling or procuring; aiding or abetting the commission of; incitement to commit; conspiring to commit; attempting to commit, any other act preparatory to the commission of the offence; being an accessory after the fact.

Frequently Asked Questions

What happens if a person does not declare that they have a criminal history upon application in the NT?

If a person does not declare their criminal history on their application form, and their National Police Check (or equivalent check) identifies that the person has a criminal history, the Board will consider the person's dishonesty in relation to their fitness and propriety to teach, and eligibility for registration or authorisation in accordance with the *Teacher Registration (Northern Territory) Act 2004* (the Act)

What happens when a person who is already a registered teacher or authorised person is charged with an offence?

Pursuant to section 67B of the Act:

- If a registered teacher or authorised person is **charged** with a sexual offence or another notifiable offence, they must provide a statement to the Board within 14 days.
- If a registered teacher or authorised person is **found guilty** of a sexual offence or another notifiable offence, they must provide a statement to the Board if the person, within 14 days. The statement must specify full details and the circumstances involved.

In accordance with section 50(2)(a) of the Act, the Board must hold an inquiry if it becomes aware that a person has been found guilty of a notifiable offence other than a sexual offence.

What happens if the Board are not satisfied a person is a fit and proper person to teach?

In accordance with section 32(2) of the Act, if the Board is not satisfied a person is a fit and proper person to teach, the Board must:

1. Give the person written notice of the reasons the Board are not satisfied, and
2. Invite the person to make an oral or written submission to the Board within 28 days to respond to those reasons.

The Board will then make a decision regarding the person's eligibility for registration or authorisation in consideration of the person's submission.