

Education and Training Reform Act 2006

No. 24 of 2006

Version incorporating amendments as at 1 July 2023

Division 11—Disciplinary Appeals Boards

2.4.71 Senior chairperson

In this Division—

senior chairperson means the senior chairperson of the Merit Protection Boards appointed under section 2.4.45A(2).

2.4.72 Establishment of Disciplinary Appeals Boards

- (1) There are established one or more Boards to be known as Disciplinary Appeals Boards.
- (2) The function of the Boards is to hear and determine appeals in relation to decisions of the Secretary made under section 2.4.59F, 2.4.61 or 2.4.61A.

2.4.73 Membership of Boards

- (1) A Disciplinary Appeals Board consists of 3 members of whom—
 - (a) one shall be the chairperson and shall be selected by the senior chairperson from the pool of persons referred to in subsection (2)(a); and
 - (b) one shall be selected by the senior chairperson from the pool of persons referred to in subsection (2)(b); and
 - (c) one shall be selected by the senior chairperson from the pool of persons referred to in subsection (2)(c).

(2)The Governor in Council may appoint to a pool—

- (a) persons who are Australian lawyers of at least 5 years standing and have been nominated by the Secretary;
- (b) persons who are on-going employees in the teaching service and have been nominated by the Minister after calling for expressions of interest;
- (c) persons who have knowledge of or experience in education, education administration or public sector administration and have been nominated by the Secretary.

2.4.74 Terms and conditions of appointment of members

- (1) A member of a pool referred to in section 2.4.73 holds office for the period, not exceeding 5 years, specified in his or her instrument of appointment and is eligible for re-appointment.
- (2) A member of a Disciplinary Appeals Board, other than a public servant or an employee is entitled to the remuneration and allowances (if any) fixed in respect of the member from time to time by the Minister.
- (3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of a pool or a member of a Disciplinary Appeals Board in respect of the office of member.

2.4.75 Resignation and removal from office

- (1) A member of a pool referred to in section 2.4.73 may resign from office by sending to the Governor a signed letter of resignation.
- (2) The Governor in Council may at any time remove a member of a pool from office.

2.4.76 Allocation of work

The senior chairperson is to determine—

- (a) the allocation of business to the Disciplinary Appeals Boards; and
- (b) which Board is to hear an appeal.

2.4.77 Oath of office

Before first serving as a member of a Disciplinary Appeals Board, a member must take an oath or make an affirmation to the effect that the member will discharge the duties of office according to law and to the best of the member's knowledge and ability.

2.4.78 Member unable to perform duties

(1) If—

- (a) the hearing of an appeal before a Disciplinary Appeals Board has commenced but not concluded; and
- (b) a member of the Board is absent or for any other reason is unable to perform the duties of office—

the remaining members of the Board may continue to hear and determine the appeal in the absence of that member.

(2) The decision of the remaining members in relation to the appeal must be unanimous.

2.4.79 Decisions of Board

- (1) A decision of the majority of members of a Disciplinary Appeals Board in relation to an appeal is to be treated as the decision of the Board.
- (2) A Disciplinary Appeals Board must not refuse to hear an appellant except by a unanimous decision.

2.4.80 Conduct of proceedings

- (1) A Disciplinary Appeals Board may allow an employee to appear before the Board personally or by a legal or other representative.
- (2) All proceedings before a Disciplinary Appeals Board—
 - (a) must be conducted without regard to legal formalities; and
 - (b) must be directed by the best evidence available, whether or not it is the best evidence that the law in other cases admits, requires or demands.