



Form 73A – Notice of WHS dispute



Work Health and Safety Act 2011, s 102B

Information

- Use this form to notify of a WHS dispute.
- Once filed, this notice must be **immediately** served on all other parties to the dispute.
- **This Notice will be published on the QIRC website pursuant to s 102B(3) of the *Work Health and Safety Act 2011*.**
- If a relevant union for a worker affected by the WHS matter not already named as a party wish to participate in the resolution of the dispute, they may notify the Industrial Registrar in writing.
- Please read this form carefully and complete all relevant sections.
- Documents which are longer than 30 pages in length must be provided to the Industrial Registry in hard copy before it will be accepted for filing.
- For further information on please refer to the website www.qirc.qld.gov.au or contact the Industrial Registry on 1300 592 987 or via email at qirc.registry@qirc.qld.gov.au.

Notification

Notice is hereby given of a dispute in accordance with s 102B of the *Work Health and Safety Act 2011*.Has a Form 74 – Application for WHS review been filed in relation to the matter/s in dispute? ☒ No ☐ Yes [Matter No. WHS/____/____]

Notifier

Queensland Teachers' Union of Employees

AND

Respondent

State of Queensland (Department of Education)

If there are more parties to the WHS dispute, please complete a **Form 1 – Parties List** and file it together with this form.

1. Particulars of the party notifying of the dispute

Name:	Queensland Teachers' Union		
Postal/Service address:	21 Graham St		
	Suburb/Town	Milton	Postcode 4064
Phone number:	(07) 35129000	Mobile number:	
Email address:	qtu@qtu.asn.au		
Name of contact person:	Jodie McFadden		
Direct phone number:		Mobile number:	0437733062
Direct email address:	jmcfadden@qtu.asn.au		

2. Particulars of the other party to the dispute			
Name:	State of Queensland (Department of Education)		
Postal/Service address:	PO Box 15033		
	Suburb/Town	City East	Postcode 4002
Phone number:	(07) 35136512	Mobile number:	
Email address:			
Name of contact person:			
Direct phone number:		Mobile number:	
Direct email address:			

3. Workplace where dispute exists
Every state school in Queensland

4. WHS matter subject of the dispute	
This dispute (as defined in s 102A of the <i>Work Health and Safety Act 2011</i>) is in relation to: [Please pick one or more of the options below]	
☐	A work group determination matter.
☐	A work group variation matter.
☐	Access to information by a health and safety representative under s 70(1)(c) of the Act.
☐	The giving of a notice or information to a health and safety representative under s 70(1)(cb) or (cc) of the Act.
☐	A request by a health and safety representative for a person assisting the representative to have access to the workplace under s 70(1)(g) of the Act.
☐	A matter mentioned in s 72(2)(aa), (a) or (b), or s 72(4)(a), (b) or (c) of the Act relating to training for a health and safety representative.
☐	A health and safety committee matter.
☒	A matter about work health and safety that is an issue to which Part 5, Division 5 (Issue Resolution) of the Act applies.
☐	An issue about cessation of work under Part 5, Division 6 (Right to cease or direct cessation of unsafe work) of the Act.
Does this dispute relate to any of the following decisions made by an Inspector?	
☐	s 54(5) – Negotiations regarding an agreement
☐	s 76(6B) – Regarding a health and safety committee

5. Compliance powers	
Has an inspector been appointed to assist the parties reach an agreement or resolve the dispute?	☐ Yes ☒ No
If yes, was a decision made by an inspector to exercise, or not to exercise, compliance powers under Part 10 of the Act subject to review under Part 12 of the Act?	☐ Yes ☐ No

6. Issues in dispute

Please outline the issues in dispute between the parties:

[Please note that any details you provide will be published as part of this Notice]

Please attach a schedule if more room required

See Annexure A.

7. Briefly state the relevant industrial instrument/s affected (e.g. award, agreement, determination) OR the industry in which the dispute arose and/or type of work being undertaken by those in dispute

Department Of Education State School Teachers' Certified Agreement 2022
Teaching in State Education Award – State 2016

8. Signature of the party notifying of the WHS dispute

Signature:	
Name:	Jodie McFadden
Position/Capacity:	WHS Organiser
Date:	15/09/2026

ANNEXURE A

Background

1. The regular exposure of Queensland Teachers' Union (**QTU**) members to work-related violence and aggression arising from the conduct of students is uncontroversial.
2. Managing the risk of work-related violence and aggression is a matter the QTU and the Department of Education (the **DoE**) are routinely consulting about. By way of example, the matter is a standing agenda item at the DoE Peak Union Health, Safety and Wellbeing Committee.
3. QTU members are encouraged to record hazards, including hazards associated with student conduct, through the *MyHR WHS* reporting system, and the DoE's guidance in relation to recording hazards in the *MyHR WHS* reporting system (attached and marked '**Attachment 1**') directs employees to record 'negative human behaviour', including aggression, within the 'People' hazard category (see page 1 of the guidance material).
4. When recording a hazard in the *MyHR WHS* reporting system, there is no available field for an employee to identify the person associated with the 'negative human behaviour' that is being recorded.
5. QTU members are also encouraged to record WHS incidents, including incidents involving work-related violence and aggression, in the *MyHR WHS* reporting system, and the DoE's guidance in relation to recording incidents in the *MyHR WHS* reporting system (attached and marked '**Attachment 2**') explicitly prohibits employees from using individual names or identifiers when entering a summary of an incident (see bolded orange text on page 2 of the guidance material).
6. In effect, when either recording a hazard or a WHS incident, QTU members cannot identify a student whose conduct has exposed them to work-related violence and aggression. This is the crux of the issue in dispute.
7. The issue in dispute concerns the DoE's capacity to identify hazards, assess and manage risks, implement and review appropriate control measures, and monitor workplace conditions as required by the *Work Health and Safety Act 2011* (**WHS Act**). The dispute does not relate to student disciplinary processes or educational management decisions.

The DoE's obligations

8. The DoE is a PCBU within the meaning of section 5 of the WHS Act.

9. Work-related violence and aggression is a psychosocial hazard within the meaning of regulation 55A of the Work Health and Safety Regulation 2011 (**WHS Reg**) – it arises from, or relates to, workplace interactions or behaviours (reg 55A(a)(iv)) – and is identified as a common psychosocial hazard in the *Managing the risk of psychosocial hazards at work Code of Practice 2022* (the **COP**).
10. Section 19 of the WHS Act imposes a primary duty of care on the DoE to ensure, so far as is reasonably practicable, the health and safety of QTU members, including, *inter alia*, in respect of the provision and maintenance of safe systems of work (s 19(3)(c)) and that the health of QTU members and the conditions at their workplace are monitored for the purpose of preventing illness or injury (s 19(3)(g)).
11. Section 17 of the WHS Act relevantly states the following in respect of the management of risks:

A duty imposed on a person to ensure health and safety requires the person—

(a) to eliminate risks to health and safety, so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.
12. Pursuant to section 18 of the WHS Act, determining what is reasonably practicable in relation to their duty requires the DoE to take into account and weigh up all relevant matters, including, *inter alia*:
 - a. the likelihood of the hazard or the risk concerned occurring; and
 - b. the degree of harm that might result from the hazard or the risk; and
 - c. what the person concerned knows, or ought reasonably to know, about—
 - i. the hazard or the risk; and
 - ii. ways of eliminating or minimising the risk.
13. Regulation 55C of the WHS Reg imposes a duty on the DoE to manage psychosocial risks under part 3.1 of the WHS Reg (i.e., regs 32–38).
14. Relevantly, part 3.1 of the WHS Reg requires the DoE to:
 - a. identify reasonably foreseeable hazards that could give rise to risks to health and safety (reg 34);
 - b. ensure that control measures are effective, and are maintained so that they remain effective (reg 37); and

c. review and, as necessary, revise control measures in the following circumstances (*inter alia*):

i. the control measure does not control the risk it was implemented to control so far as is reasonably practicable, and

ii. a new relevant hazard or risk is identified (reg 38).

15. In determining the control measures to implement in relation to psychosocial hazards, pursuant to regulation 55D, the DoE must have regard to all relevant matters, including, *inter alia*, the duration, frequency or severity of the exposure of workers and other persons to psychosocial hazards.

16. Section 26A of the WHS Act also imposes a duty on the DoE to comply with the COP.

17. Relevantly, the COP (at page 22) prescribes that ‘... potential sources of violence and aggression should be considered when trying to identify the risk of work-related violence and aggression’.

The issue

18. In circumstances where a psychosocial hazard arises from the workplace interactions or behaviours, or in other words, conduct of an identifiable individual, the ability to accurately identify the source of that hazard is fundamental to effective risk management.

19. Without the capacity to identify the individual whose conduct creates the risk, the DoE cannot reasonably comply with its obligations as a PCBU detailed at paragraph [8] to [17] above, including for the following reasons:

a. repeated incidents involving the same individual may not be recognised as part of an escalating pattern of hazardous behaviour, which is relevant to identifying reasonably foreseeable hazards and determining matters such as:

i. the likelihood of the hazard or the risk concerned occurring, and

ii. the degree of harm that might result from the hazard or the risk;

b. workplace hazards may not be appropriately assessed;

c. effective control measures tailored to the specific risk, and that have regard to the duration, frequency or severity of the exposure of workers to work-related violence and aggression, may not be implemented and/or maintained;

d. the effectiveness of control measures may be difficult or impossible to monitor and review; and

- e. workers and others may be exposed to ongoing and foreseeable risks that have not been adequately managed.

20. The QTU submits that these outcomes are inconsistent with the risk management framework established under the WHS Act, including the obligation to eliminate risks to health and safety so far as is reasonably practicable, or where elimination is not possible, to minimise those risks so far as is reasonably practicable. They are also inconsistent with the obligation to provide and maintain a safe system of work and to monitor workplace conditions for the purpose of preventing illness and injury.
21. Where workplace hazards arise from the conduct of identifiable individuals, the identification of the source of the hazard is an essential component of hazard identification, risk assessment, implementation of control measures, and the review of those control measures. A reporting system that prevents or discourages the recording of that information undermines the effectiveness of those processes and may significantly impair the DoE's ability to discharge its statutory obligations (as set out above).

The QTU's attempts to resolve the issue

22. The QTU has raised this issue with the DoE on numerous occasions through consultation processes, including meetings held on 12 June 2026, 17 June 2026, 23 June 2026 and 25 August 2026. Minutes from the DoE Peak Union Health, Safety and Wellbeing Committee meeting dated 25 August 2026 are attached and marked '**Attachment 3**'.
23. The QTU and the DoE have also had a dialogue about the matter via formal correspondence dated 23 June 2026, 27 July 2026, 3 August 2026, 21 August 2026 and 2 September 2026 (attached and marked '**Attachment 4**'), and via email in respect of recording WHS incidents (attached and marked '**Attachment 5**').
24. Throughout these discussions, the DoE has consistently advanced the position that identifying the name of a student, whose conduct gives rise to a workplace hazard and/or is the subject of a WHS incident, in the *MyHR WHS* reporting system, when recording a hazard or a WHS incident, would constitute a breach of privacy obligations. Despite repeated requests from the QTU, the DoE has not identified any legislative basis for this position (and it would be imprudent for the QTU to accept it on face value) nor provided any alternative mechanism that would enable hazards arising from the conduct of identifiable individuals to be effectively managed in accordance with its obligations under the WHS Act and WHS Reg.

25. At the DoE Peak Union Health, Safety and Wellbeing Committee meeting on 25 August 2026, attended by senior departmental officers and peak union representatives, the QTU sought clarification from the DoE in respect of the *MyHR WHS* reporting system's capacity to restrict access to student details to assist with the management of any privacy concerns. On behalf of the DoE, the Executive Director HSW Human Resources Strategy, confirmed this function is enabled for recording WHS incidents, but not for recording hazards.
26. At the same meeting, the Acting Deputy Director-General acknowledged the concerns raised by the QTU and undertook to consider the matter further outside the meeting. Despite that commitment, and formal correspondence from the QTU, no response has been provided by the DoE.
27. In our most recent correspondence (dated 2 September 2026), the QTU proposed practical solutions to address the issue while balancing both the purported privacy concerns and the work health and safety considerations. The QTU further requested that, if those proposals were not considered acceptable to the DoE, that the DoE provide:
- a. written reasons for rejecting the proposed measures;
 - b. the legal and operational basis upon which it considers its current approach complies with its duties under the WHS Act; and
 - c. details of any alternative system or process that would enable hazards arising from the conduct of identifiable persons to be appropriately identified, assessed, controlled, monitored and reviewed.
28. The QTU requested this information by close of business on 10 September 2026. No response has been received.

Conclusion

29. The absence of a response, together with the ongoing position adopted by the DoE, has given rise to a genuine dispute regarding the adequacy of the DoE's work health and safety systems and whether those systems enable the department to discharge its statutory obligations.
30. The QTU seeks the assistance of the Commission in relation to this matter.