

**TUI Response to Draft General Scheme of an Education**

**(Admission to Schools) Bill 2013**

**November 2013**

TUI represents over 11,000 teachers (post- primary and further education) in schools/colleges/centres managed by the Education and Training Boards and in Community and Comprehensive Schools. The schools in which its members work cater for a disproportionate number of students with special educational needs and/or students from special interest groups. The union, therefore, welcomes efforts by the Oireachtas and Minister for Education and Skills to amend the Education Act 1998 in order to address school admissions policies that enable exclusionary, selective practices that, in reality, support an inequitable education system and give unfair advantage to certain groups in society and certain cohorts of students.

TUI considers that the proposed amendment could, in general, lead to fairer and more transparent admissions practices. However, it is not convinced that the current wording sufficiently addresses the most significant, selective and exclusionary practices. This is disappointing and TUI urges that further work and revisions are undertaken in order that any forthcoming amendment to the Education Act 1998 effects real change. In particular, it emphasises the following areas for further review.

**Head 3 - Requirement that an admission policy states that the school will not discriminate in admission.**

In current draft the bill continues to give schools considerable scope to refuse admission or exclude on the basis of characteristic spirit or ethos e.g. Section (2) (d) (i) and Section (2) (d) (iii). See also Head 4, Education Act Section 33 (m) (v) and Head 9, Section 12 (ii) (b). The union accepts that this is governed by the Equal Status Act 2000, Section 7 (3) (a) and considers that amendment to that Act may be necessary to bring about real change in attitudes and admissions practices. It advises that the wording of this Bill (e.g. Section 15 (2) (d) (iii) (ii) ) be revised to ensure that only in exceptional circumstances and where there is very real and tangible proof that there is a threat to the ethos can a school refuse admission.

**Head 4 - Amendment of Section 33 to set out the powers of the Minister to make regulations in relation to the admission of students to schools.**

*Section 33 (m) (viii):* TUI considers that the current amendment is too limited in scope as it only addresses enrolment to the school for first year or other year groups. It should also address admissions to programmes and subjects especially in the context of over subscription. Therefore, it suggests that this sub-section be revised to, at minimum, ensure schools have clear, transparent and fair policies and procedures in this regard.

*Section 33 (m) (vi)(iv):* TUI questions the basis for An Garda Siochána and Health Service Executive providing written opinion that the admission of the student could have a seriously detrimental effect on safety of other students or staff. It considers that it would be better and more prudent that if a school has such concerns that the matter be referred to the NEWB for its consideration and attention.

*Section 33 (m) (ix):* TUI agrees that regulations should address the matter of interviews that may or may not be permitted prior to a school making a decision on an application for admission. It emphasises that in this instance and in other relevant areas it will be necessary for the legislation and regulations to be mindful of the different context and needs of further education settings and centres. TUI notes that relevant clarifications will be necessary as to the how the amendment and regulations relates to different contexts.

**Head 5 - Repeal of Section 29 (1) (c) of the Education Act, 1998.**

TUI accepts the appeals process needs to be reviewed with a view to making the process less cumbersome. It, therefore, supports the repeal of Section 29 (1) (c). It does not, however, agree with the new approach to appeals - see below.

**Head 6 - Function of a Principal to implement a school’s admission policy and**

**Head 7 - Appeals to the Board of Management against refusals to enrol.**

TUI accepts that the principal has core responsibility for day-to-day decision making in a school and for overseeing associated processes and procedures. It, however, does not accept that the Board of Management should be the sole arbitrator of an appeal against refusal to enrol. Such an approach is underpinned by flaws as:

a) It places the Principal in the invidious position of being pitched against the Board of Management. The proposed mechanism suggests that there is a distinction between principals and boards of managements which does not exist – they are not entirely separate and share overall responsibility for managing the school.

b) The Board of Management may be reluctant to overturn a decision of a principal in some instances. This could possibly undermine fair consideration of the demerit or merit of a decision by a principal not to enrol a student

c) It does not instil confidence that a parent will have reasonable opportunity to have their appeal fairly heard or upheld. In fact the proposal provides a wholly inadequate appeal mechanism for a parent who should have recourse, as a final option, to a review by a committee independent of the Principal and the Board of Management.

TUI seeks revision to this Head to make provision for a further, more independent appeal process when a parent (or student in case of Further Education) is not happy with a decision by a principal or Board of Management.

**Head 9 - Power of the National Educational Welfare Board and the National Council for Special Education to designate a school and associated appeal mechanisms.**

TUI endorses provision for the NCSE or NEWB, in keeping with their roles, to designate a school or centre that a child is to attend. However, it feels Section 2 and 4 are weak in respect of ensuring that all schools carry fair responsibility for providing education to children with special educational needs or for those who have other specific needs that need to be addressed such as English as a second language, a particular physical or emotional disability. Some revision is, therefore, advised.

In addition, in respect of appeals TUI considers that the current wording under Section (12) (ii) (a) and (b) is inadequate and provides for ‘soft barriers’ to admissions to continue. This would undermine the amendment to legislation as it would fail to maximise the opportunity to bring about fairer and equitable admission practices.

The general observations above are carried forward into the draft regulations on content of policy and admissions process and accordingly these merit further consideration and rewording.

In particular, TUI considers a number of section and sub-sections require revision:

**Draft Regulation - Content of Policy**

Section 14 (i) (a) – TUI accepts that subscription criteria should give preference to an applicant who has a sibling attending a school at the same time. However, it opposes the idea that preference be given to those who has a sibling that previously attended except in the context of section 15. TUI therefore seeks a revised wording for Section (14) (i) (a) and (b).

In general, TUI considers more detail needs to be included on how over-subscription could be addressed in a fair manner. At minimum a statement should be included to indicate that a school’s policy in this regard must not lead to the re-emergence or consolidation of ‘soft barriers’ to admission.

**Draft Regulation - Admissions Process**

*Section 9 and note regarding timeframes:* TUI does not consider it necessary or appropriate to set an enrolment date in advance of 1st October of the preceding school year. To introduce further options simply adds unnecessary complexity and could in fact reinforce ‘soft barriers’ which this legislation and regulations are attempting to address.

*Section 11:* TUI considers that at least four weeks from date first applicants are accepted would be a more appropriate timeframe for receipt of applications.

**For further clarification please contact:**

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