



Within Tuition

Australian Tutoring Association (ATA) Ltd.

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The Australian Tutoring Association (ATA) Ltd Newsletter

President's Message

The ATA is now well into its third full operational year and proudly represents hundreds of businesses (and therefore also thousands of employees and parents) from every State and Territory in Australia.

On recent developments within the industry, the Federal Budget for 08/09 brought significant news. The near half billion dollar federally funded "An Even Start (AES)" tuition program was cancelled. It will now not continue past this calendar year. Some business providers may see this as good news given the difficulties they have experienced working within the Curriculum Corporation's administrative setup. It is however a major opportunity lost for those parents (and students) who may not normally be in a position to afford private tuition.

The ATA has recently received final paperwork to enable us to move from the current committee structure in place to a company limited by liability and represented by a Board with nine elected and appointed members. The move will be finalised within the next few weeks. It will provide no noticeable differences to members other than a

more transparent and accountable management system.

Last edition I addressed the success of the industry based insurance cover we have negotiated with RGIB. Over 50% of our members have elected to take up the cover in its first year of offering; this is a very positive result. Further to this we have recently been in negotiation with members of the superannuation industry with a view to establishing a tuition industry based superannuation fund. More news on this will follow, but for now the advantages are significant, not just for members, but also for the ATA. With the right structure in place a fund such as this will have the capacity to provide additional funding to support the administrative load currently provided on a voluntary basis by the board.

The committee has been planning for the time when we will no longer be in a position to provide adequate administrative support (voluntarily) to enable the ATA to fully grow and prosper. In the not too distant future we will be looking to employ an administrative assistant on a part time basis to

support members and be available for implementing committee initiatives and driving membership growth. First however we need to get our financial situation on a solid and stable level. The insurance initiative and superannuation initiative will allow us to achieve this while providing the two fold beneficial outcome of keeping membership costs low and providing additional and relevant services to our members.

Referring again to the last edition of "Within Tuition" I raised a question that was posed to me by a reporter - 'Do teachers make the best tutors?' We are lucky to be represented by a diverse and interesting range of backgrounds in this industry. The ATA committee itself is representative of this broad background, represented by teachers but not exclusively so. In this edition we have one tutors story. It is an interesting read. I hope you enjoy it and I would like to thank the tutor in question for her submission. Finally the committee would appreciate any ideas on future proposals that you would like us to pursue or feedback on any of our current initiatives. We would love to hear from our members either through letters to the editor, articles or submissions to us. **Chris Druett**

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industry body must set minimum standards in order to give the market confidence in service-providers. It is crucial that the Members of such a body know what is expected of them. To this end the Code provides guidelines. All members **MUST** be aware of their obligations to the Code and uphold the principles articulated in the Code. Note that the ATA can request Members to furnish documentation of adherence to the Code. Thus, for example, a request to see a Members 'Refund policy' can be requested.

Editorial

This edition of the ATA Newsletter is full of interesting information. Articles range from issues regarding the ATA Code and recent

amendments, through to issues about tutor accreditation, dispute resolution and the AES program. A most important issue to arise for the organisation within the last quarter has been that related to dispute resolution processes. Any



The ATA and grievance handling, dispute resolution - Mohan Dhall

From time to time the ATA office receives telephone calls or email inquiries related to consumer complaints. The majority of these are between non-members and consumers/clients from the general public, however a recent call related to an ATA member and it raised important issues for the membership.

The details were as follows: the client was a 17-year old who sought tuition in a series of subjects. The client's parents, from non-English speaking background, paid \$1,200 upfront for the tuition. Despite paying in full for the Term's tuition, a contract was never signed and most of the negotiations were verbally conducted with the student acting as a translator for the parents. The student attended a couple of lessons and was very distressed at what the student felt was the appallingly low standard of service offered. The student therefore requested a refund. The business refused a refund and sought to give a 'credit note' instead. The student was incensed and approached the NSW Office of Fair Trading (OFT) who advised that the student was within their rights to lodge a claim. The student also lodged a letter of demand with the business for its refusal to give a refund. The student wrote to the ATA and alleged a breach of Clause 38 of the ATA Code of Conduct.

CI 38: A client has the right to discontinue tutoring services for any reason whatsoever.

The Trade Practices Act 1974 (Cth)

Despite the actions of commercial enterprises, the TPA allows that refunds are due when there is a breach of s74(1):

(1) In every contract for the supply by a corporation in the course of a business of services to a consumer there is an implied warranty that the services will be rendered with due care and skill and that any materials supplied in connexion with those services will be reasonably fit for the purpose for which they are supplied. (Source: www.austlii.edu.au)

The client's concerns here were that the standard of service was inconsistent with that verbally stated prior to payment of the money.

The Issues

The matter for a refund was taken up by the student on behalf of the parents. While requesting a refund the younger sibling of the client was still enrolled in courses offered. The business claimed that it was subject to defamation as the student had 'bad mouthed' the business thus putting off current and future clients. This claim was never substantiated. The business **did NOT** comply with the ATA Code of Conduct with respect to the complaints resolution process. The ATA Code details the procedure to be undertaken by Members in Clauses 44 - 50.

The complaints resolution process

The ATA Code of Conduct states:

- 44) A Member will make every reasonable effort to fairly and quickly resolve any complaint made by a client.
- 45) Where an oral complaint is made to a Member the person receiving the complaint will:

- a) identify himself/herself, listen, record details and determine what the complainant wants;
- b) confirm the details received;
- c) explain the complaints resolution procedure, and advise of alternative courses of action;
- d) resolve the complaint immediately if possible or make a commitment to resolve the complaint within a given time frame; and
- e) follow up the complaint as appropriate e.g provide the complainant with feedback regarding the result of any action taken by the Member to resolve the complaint.

46) Where a written complaint is made the Member will:

- a) provide the complainant with written feedback within ten (10) days of receiving the complaint regarding the result of action taken by the Member to resolve the complaint; and
- b) if it is not possible to resolve the complaint within ten (10) days, provide written acknowledgement of receipt of the complaint within seven (7) days and specify the time frame within which the complainant will receive feedback regarding the result of action taken by the Member to resolve the complaint.

47) The Member will ensure that all staff are familiar with the Member's complaints resolution policies.

48) Where a complaint cannot be resolved between the Member and the client, the Member must advise the client of the client's right to refer the complaint to the ATA. Either party can refer the complaint to the ATA.

49) Where a complaint is referred to the ATA, the Board via its Code Administration Committee (CAC) will, as soon as practicable after the referral, hear the complaint and notify the parties in writing of the determination.

50) Where the ATA determines that a Member has breached the Code, the ATA will apply sanctions as per the ATA Constitution.

The 'resolution'

By the time the ATA received notification of the dispute both parties had already become very fixed in their positions. The client was adamant that a full refund for the unused portion of the tuition was due. However, the client's parents did not get directly involved in the dispute. Moreover, there was some ambivalence from the family as the younger sibling remained in attendance in courses throughout the dispute.

The business was equally adamant that it would not only be prepared to front Fair Trading, but if asked to do so would 'sue the client on the grounds of defamation'. The ATA Complaints Administration Committee perceived this to be bullying behaviour and thought that the matter would have been very easily resolved had the business simply given the student the refund. Given the nature of claim and counterclaim the matter was 'resolved' by both parties withdrawing their claims against the other. Note that the CAC via the Board can request copies of documentation of adherence to the ATA Code. This is stated on the Statutory Declaration which members sign.



An Even Start - National Tuition Program Budget Update

An Even Start - National Tuition Program will be delivered in 2008. Parents of eligible students have been notified and tuition is commencing across states and territories.

In the 2008-09 Commonwealth Budget, the Government announced that *An Even Start - National Tuition Program* would not continue beyond 2008.

Saving from discontinuing the program will allow the Australian Government to redirect funds to better target its investment in literacy and numeracy, starting with those schools and students most in need of help. This will be achieved through collaboration with states, territories and education authorities, using evidence from

around the world about what works.

The 2008 implementation of *An Even Start* has offered streamlined administrative arrangements and much greater flexibility in delivery to better suit the needs of students and their parents.

The Australian Government will continue to work closely with state, territory and non-government education authorities to maximise participation in the program by tutors and students in 2008. Results from the program's evaluation will inform the development of the Australian Government's National Literacy and Numeracy Action Plan.

ATA Code of Conduct Updated

The ATA Code of Conduct has been amended by the ATA Board. This will happen from time to time as required by the organisation. The main changes are very minor and simply reflect the change from an Association structure to that of a company limited by guarantee.

Apart from the necessary changes arising from the change in legal structure, there has been a removal of Clause 36 (c) which had made reference to "cooling off" periods. This Clause was removed as it was unnecessary in the light of State and Territory fair trading legislation.

An expansion of the ATA into other fields

From time-to-time the ATA receives requests for membership from groups not currently covered by a Code or by those seeking access to the insurance scheme offered by the ATA. Examples of such parties include:

- First aid groups and trainers seeking access to affordable public liability insurance;
- Speech therapists and occupational therapists seeking an avenue for expressing their needs in an industry;
- Tutoring businesses with domestic operations that seek to enter offshore markets, or those already in offshore markets that seek to distinguish themselves from their competitors;
- Businesses offering on-line tutoring services that seek to be a member of an industry body.

In each of these examples, the ATA Code of Conduct would be a means by which to support a broader membership, especially if new categories could be created to address the specific needs of such diverse potential members. The implications go beyond the need for a Code that would need to be responsive to and specific to the needs of a greater diversity of members. The ATA would also need to

consider specific member benefits of relevance to such groups. Despite these issues and others that would need to be resolved the ATA is very open to any suggestions from any groups in regards to their inclusion into the ATA as a representative body. Whether full or associate membership is an option would be discussed at Board level and open to input from members.

The opportunities for the ATA to grow, both domestically and offshore provide exciting prospects ahead.

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Changes to the NSW Working With Children Check

There have been recent changes to the Working with Children Check background check. The Commission for Children and Young People has developed a new risk estimate model known as AWARE (A Workplace and Applicant Risk Estimate).

AWARE is based on research and expert knowledge about what constitutes risk of harm to children in organisations and what are the best ways to manage risks in organisations. Reflecting contemporary thinking, AWARE focuses on how the characteristics of an environment can be used to better manage risk to children. Most employers effectively prevent harm to children when they reduce opportunities for harm in their workplace.

The Commission for Children and Young People has developed Child Safe and Child Friendly resources to help employers minimise risk to children. Child safe means taking steps to keep children safe from physical, sexual or emotional abuse. Child friendly means kids are valued, respected and included so they feel confident they will be listened to.

Kids, parents, staff, volunteers and students can all contribute to and benefit from making creating child safe and child friendly environ-

ments. You can access these resources on the Commission's website at <http://www.kids.nsw.gov.au/director/check/safefriendly.cfm>

AWARE assists employers to identify risks inherent in particular positions and to identify what controls are in place to manage risk to children overall in the organisation. The tools provided by the Commission to assist with this process are the Position Risk Estimate (PRE) and the Organisation Risk Estimate (ORE). With this information the employer can make an informed decision about managing additional risks arising from the applicant's relevant record. The process of identifying and managing position and organisation risk of harm to children, also provides assistance to employers in lowering organisation and position risks.

It is clear from the above that AWARE provides an estimate of:

- the level of risk shown by the applicant's record
- the level of managed and unmanaged risk inherent in the position; and
- the level of managed and unmanaged risk to children overall in the organisation.

The information arising from the estimates will assist you to make an informed decision about recruitment of a particular applicant. Senior Risk Assessors from the Employment Screening Unit will be providing the estimates to you and are happy to discuss your response to the information. When you receive a risk estimate outcome, it may be helpful for you to discuss with the applicant his or her relevant record and that information may further assist you in making your recruitment decision.

In a period of transition, it is important that assistance and advice is provided to employers to enable them to understand and implement the AWARE model.

The Employment Screening Unit is committed to that role and we welcome questions or the opportunity to provide training in relation to AWARE.

The Employment Screening Unit's Senior Risk Assessors and Customer Service Team can be contacted by telephone on (02) 9836 9200.

The need for tutor training and certification - Mohan Dhall

At present in Australia there is no requirement for a person to have a professional qualification in order to tutor. This means that people can register a business and trade in the industry without any formal qualifications or experience. This presents a number of problems for the industry:

- Qualified tuition providers, that is, those with degrees in specialised areas cannot be distinguished from those without degrees;
- Teacher-accredited tutors cannot be distinguished from non-teacher accredited tutors.

- People can set up business names that imply a level of accreditation that is not true through the use of words such as 'qualified', 'professional' or other nomenclature.

Many calls are received at the ATA office that ask what the minimum level of accreditation is required to tutor in Australia. When prospective tutors are told that there is no barrier to entry based on training or accreditation processes, most are absolutely dumbfounded, and many are very concerned. The ATA is premised on notions of minimum standards of service and open disclo-

sure in regards to a person's formal qualifications and experience.

It is crucial that non-degree qualified persons who wish to enter the market have an accreditation avenue. To this end there should be an entry level form of certification which is recognised within the industry and also outside of the industry, in the broader education community.

Such an option would assist in creating minimum standards within the sector and provide a means of on-going professional development for current employees within the industry.



One Tutor's Story by Eva Tejszerski

I vividly remember my first lesson with a student. There was a sense of nervousness and excitement, combined with quiet confidence that filled the room. And that was just me - who only knew how my student felt? There was one thing I repeated to myself, "Tutoring is not the same as teaching, let's give this a go." Months later, I discovered that although there were obvious differences between the two, both were beneficial learning processes.

Although I did not go to the best or most expensive high school in Sydney, nor was I a strict 'straight-A' student in every subject, I excelled in and thus enjoyed most of my studies. After completion of my high school certificate, I was overwhelmed to get accepted into the course and university of my choice, and I looked forward with great anticipation to becoming a successful journalist.

Searching for employment in such a competitive industry was a challenge, and there were times along the way, when I considered a change of direction - into a teaching career. I knew there was an abundance of opportunities to work as a teacher in Australia and the conditions seemed appealing. Most importantly, I had the type of outgoing and motivated personality that would suit the industry. However, I chose to stick with my original choice and I can say that I have no regrets, because since becoming a tutor I think I get the best of both worlds.

My decision to tutor was primarily to support my full-time income. I had jumped on the 'property band-wagon' at a young age, so the extra pocket money came in handy. But as I gained more skills in the tutoring industry, I realised that the experience I received was extremely valuable.

I was fortunate enough to have retained a lot of my knowledge of specific texts on my curriculum when I was a student myself, so the electives I chose to tutor in came easily to me. This added to my confidence in being able to assist my students in their own studies and give them positive and helpful feedback.

Although I did not have the specific educational quali-

cations to "teach", I was able to use - and further develop - my character skills of organisation, motivation and patience to a higher level where I was able to support each my of students. This one-on-one method of assisting student's development proved to be very effective.

One of the main factors that I considered to be significant, was the fact that I was able to relate to them because of the narrow age gap. And vice versa. I think my students feel comfortable being able to discuss their learning challenges with me because I am only 25 years old.

As I took on more students, I realised that they each had different ways of interpreting and absorbing information. Although I could see improvements in all of them over different periods of time, they each required individually-catered assistance, which in the classroom [sometimes an intimidating environment] they may not always have the luxury of getting.

The main thing that I have learnt from tutoring is that I can provide the backup support for my students when they need it. Through regular practice and appropriate feedback, I feel that they have the opportunity to practice extra-curricular exercises tailored to their individual needs.

Now that I have had sufficient experience with a variety of different students with a range of personalities and ages, I have come to realise that it is important to regularly remind them that they need to have the desire to improve, and do majority of the study themselves.

When I meet the parents of my students, most of them tell me they wanted a tutor for their son or daughter not only to improve their school grades, but to give them some training and support in basic life skills, such as learning how to create an organised study regime, or simply being more confident in their written and spoken word. Through tutoring, I think this can be achieved with the right attitude and a little inspiration.

Eva Tajszerski, Journalist and Tutor

Teachers who tutor - A 'restraint of trade issue'?

Many teachers also moonlight as tutors. A huge proportion of these teacher collect income on a cash basis and do not register a business name, get an ABN or submit GST. An issue arose recently with respect to this 'informal' sector of the industry. What is the relationship between teaching and the provision of tutoring services? Most teachers are employed on a *contract of service*. These contracts typically exclude a teacher from taking on additional work. Some of the contracts do allow for a teacher to take on 'other work provided that a request is made to the Principal. A

teacher was seeking work recently as an after hours tutor and alleged that her employer said she could not work as her contract did not allow it. The ATA sees this as a 'restraint of trade' issue and is keen to make submissions to the various State-based Departments of Education, Catholic Systemic representative and the Association of Independent Schools (AIS) bodies.

Tutors and teachers are requested to contribute to this via email to mdhall@ata.edu.au.

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ATA Board Meetings

The ATA Board meets from time to time (4 times per year face-to-face) and conducts regular teleconferences. The ATA Board aims to improve the range of services offered to ATA members. Members are welcome to contribute items for the Board to discuss through contacting one of the Board members or emailing the ATA at the addresses listed below.

Members are invited to contribute to the newsletter, which is published quarterly. The ATA Newsletter is distributed in hard copy form to all members and is also available on the ATA website for download.

Within Tuition Editor: Mohan Dhall
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Contacting Us

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ATA Updates:

An Even Start (AES)

The early anecdotal prognosis for the AES program is not looking good. Schools and tutors have reported to the ATA that they find the administrative processes cumbersome and confusing. Moreover, there is much concern that the students most in need will once again miss out. The hope was that this time around the money would be well spent and help the students most in need of literacy and numeracy support. There was also a hope that the administrative framework and processes would be sufficiently settled to avoid a timing issue which would place students and tutors under pressure. However, to date it seems that the very things most desired for a successful program will be the things most wanting. We remain open but watch developments with interest.

Sticker availability

The ATA has stickers available for car bumpers and for windows of premises. All new members received two such stickers upon acceptance of membership. Additional stickers can be purchased from \$1 each from the office.

Back Issues of the Newsletter

Previous issues of the ATA newsletter are available upon request. Moreover, they can be downloaded from the ATA website: www.ata.edu.au.